

**INTERNATIONAL
COVENANT
ON CIVIL AND
POLITICAL RIGHTS**



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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1977

Addendum

CHILE

[5 August 1977]

A. INTRODUCTION

The legal and historical tradition of Chile embodies the principle that human rights antedate the State and that human society is the raison d'être of its entire legal order.

Motivated by the need to strengthen and enhance the rights recognized in the Political Constitution of 1925 and to incorporate new guarantees consistent with contemporary constitutional doctrine and its embodiment in the Constitution, the Government of Chile promulgated Constitutional Act No. 3 on "Constitutional Rights and Duties" on 11 September 1976.

The text of the Constitutional Act itself is annexed to this report; the rights it embodies and the remedies it provides to ensure that they are not violated are set out below.

B. RIGHTS EMBODIED

I. Right to life

"This Constitutional Act ensures for all individuals:

1. The right to life and integrity of person, without prejudice to the applicability of penalties established by law.

The law protects the life of the unborn.

The application of any unlawful coercion is prohibited."

GE.77-9780

II. Right to equality before the law and non-discrimination

"This Constitutional Act ensures for all individuals:

2. Equality before the law. In Chile there are no privileged individuals or groups.

Men and women shall enjoy equal rights.

Neither the law nor the authorities may establish arbitrary discriminations."

III. Right to equal protection of the law in the exercise of their rights

"This Constitutional Act ensures for all individuals:

3. Equal protection of the law in the exercise of their rights.

Everyone has the right to legal defence and no authority or individual may prevent, restrict or interfere with the due intervention of counsel if it has been requested. In the case of members of the armed forces, the forces of order and the public security forces, this right shall be governed, as regards administration and discipline, by the relevant norms of their respective regulations.

The law shall make provision for legal advice and defence in the case of those who are unable to obtain it for themselves.

No one shall be tried by special commissions, but only by the tribunal assigned to the person concerned by law and pre-established by law.

Any judgement of an organ exercising jurisdiction must be based on a lawfully conducted prior trial. The legislator shall in all cases establish guarantees of a reasonable and just proceeding.

In criminal cases, no offence shall be punishable by a penalty other than that specified in a law promulgated prior to the commission of the offence, unless a new law is more favourable to the accused."

IV. Right of access to all public employment and public offices

"This Constitutional Act ensures for all individuals:

4. Access to all public employment and public office, without any requirements other than those imposed by the Constitutional Acts, the Constitution and the laws."

V. Right to equitable distribution of public charges

"This Constitutional Act ensures for all individuals:

5. Equitable taxation, in proportion to wealth or in the progression or form established by law, and equitable distribution of other public charges."

VI. Right to personal liberty and security of person

"This Constitutional Act ensures for all individuals:

6. The right to personal liberty and security of person and, consequently, the right to reside and remain at any place in the Republic, the right of movement from place to place and the right to enter and leave the territory of the Republic, subject to observance of the norms established by law and saving any prejudice to other persons.

(a) No one shall be deprived of or restricted in his personal liberty, except in the cases and in the manner laid down by the Constitutional Act, the Constitution and the laws.

(b) No one shall be arrested or detained except by order of a public officer expressly empowered thereto by law and after the person concerned has been notified of such order in due legal form. However, a person taken in flagrante delicto may be detained solely for the purpose of placing him at the disposal of the competent judge within the following 24 hours.

If the authorities cause any person to be arrested or detained, they shall, within the following 48 hours, notify the competent judge and place the person concerned at his disposal. The judge may, by an order stating the reasons, extend that time-limit to not more than five days.

(c) No one shall be arrested or detained, or held in custody or committed to prison pending trial, except in his home or in public places intended for that purpose.

The prison authorities shall not admit anyone to prison as an arrested or detained person or a person committed pending trial without recording the order for his admission, issued by the legally empowered authority, in a register which shall be public.

The fact that a person arrested or detained, or committed to prison pending trial, is being held incommunicado shall not prevent the officer in charge of the house of detention from visiting him. The said officer shall be required, whenever so requested by the arrested or detained person, to transmit to the competent judge a copy of the detention order, or to demand that a copy thereof should be given to him, or to give him a certificate evidencing that the person in question is under detention, if at the time of his detention this requirement was not complied with.

(d) Provisional release in a right of the person detained or placed in custody pending trial. It shall in all cases be granted, unless detention or custody pending trial is considered by the judge to be strictly necessary for the purpose of the preliminary examination or for the safety of the victim of the offence or of society. The requirements and procedures for obtaining provisional release shall be established by law.

(e) In criminal cases, the accused shall not be obliged to testify under oath concerning his own act; the same shall apply to his ascendants, his descendants, his spouse and such other persons as may, according to the case and the circumstances, be specified by law.

There shall not be imposed as punishment the loss of acquired rights or the penalty of confiscation of property, without prejudice to the attachment of property in cases specified by law.

However, the penalty of confiscation of property shall be permissible in the case of unlawful associations.

(f) In the event of the definitive termination of proceedings (sobreseimiento) or acquittal, a person who has been tried or convicted in any court as a result of a judicial decision which the Supreme Court declares to have been unjustifiably in error or arbitrary shall be entitled to compensation from the State for any material and moral damage suffered by him. The amount of compensation shall be judicially determined in brief summary proceedings at which the evidence shall be appraised on the basis of equity."

VII. Right to assembly

"This Constitutional Act ensures for all individuals:

The right to unarmed peaceful assembly without prior authorization. In public squares, streets and other public places, assemblies shall be governed by the general provisions laid down by law."

VIII. Right to petition

"This Constitutional Act ensures for all individuals:

The right to petition the authorities on any matter of public or private interest, without any limitation other than the requirement to proceed in respectful and appropriate terms.

The authorities shall reply to any petitions addressed to them, in accordance with the norms established by law."

IX. Right of association

"This Constitutional Act ensures for all individuals:

The right to form associations without prior authorization.

Associations must be constituted in accordance with the law in order to enjoy legal personality.

No one may be compelled to belong to an association, save as provided in paragraph 20, sixth subparagraph, of this article.

Associations contrary to morality, public order and the security of the State are prohibited."

X. Right to respect for and protection of the private life and honour of the individual and his family. Inviolability of the home and private communications

"This Constitutional Act ensures for all individuals:

Respect for and protection of the private life and honour of the individual and his family.

The inviolability of the home and all forms of private communication. Homes may be entered and private communications and documents intercepted, opened or recorded only in the cases and according to the formalities prescribed by law."

XI. Right to freedom of conscience and religion

"This Constitutional Act ensures for all individuals:

Freedom of conscience, the manifestation of all beliefs and the free exercise of all religions that are not contrary to morality or public order; consequently, the various religious faiths may build and maintain places of worship and their appurtenances provided they meet the safety and health conditions prescribed by law."

XII. Right to freedom of opinion and information

"This Constitutional Act ensures for all individuals:

Freedom to express opinions and to disseminate information without prior censorship, in any form and through any medium, without prejudice to the responsibility that may be incurred for offences and abuses committed in the exercise of these freedoms, in conformity with the law. However, the courts may prohibit the publication or dissemination of opinions or information affecting morality, public order, national security or the private life of individuals.

The law shall establish a censorship system for the exhibition of cinematographic productions and the advertising therefor.

Similarly, this Constitutional Act guarantees the right to receive truthful, timely and objective information on national and international affairs, with no limitations other than those set forth in the first subparagraph of this paragraph.

Any natural or legal person offended or unjustly referred to by any social communication medium is entitled to have his explanation or correction disseminated free of charge in the conditions prescribed by law by that same social communication medium.

Every natural or legal person shall have the right to establish and publish newspapers, magazines and periodicals in the conditions prescribed by law.

An autonomous National Radio and Television Council shall be established, whose membership, method of operation and attributions shall be prescribed by law, which shall ensure that radio and television broadcasting fulfil the purposes of disseminating information and promoting the educational objectives set forth in this Constitutional Act.

The methods of granting, renewing and withdrawing radio broadcasting concessions shall be established by law.

The State, and the universities and other persons specified by law, may establish and operate television stations.

No person who has been sentenced to penal servitude or for an offence against the institutional order of the Republic as defined by law may be the owner, director or administrator of a social communication medium, or perform in connexion with such medium duties relating to the broadcasting or dissemination of opinions or information.

The régime relating to the ownership and operation of social communication media may only be amended by law.

The expropriation of social communication media may be effected only by virtue of a special law authorizing such expropriation, against prior payment of compensation."

XIII. Right to education

"This Constitutional Act ensures for all individuals:

The right to education.

The objective of education is the full development of the individual at the various stages of his life and to that end an effort shall be made to promote among those being educated a sense of moral, civic and social responsibility; love of their country and its fundamental values; and respect for the dignity of the human being and the spirit of brotherhood among individuals and of peace among peoples.

Parents have a prior right to educate their children, and the right to choose the educational establishment. The State shall grant special protection to the exercise of these rights.

It is the duty of the national community to contribute to the development and improvement of education. The State shall meet educational requirements as one of its priority functions.

Basic education is mandatory. The State shall maintain the free schools necessary to that end and ensure access to middle-level education for those graduating from the basic level, the only criterion being the abilities of the candidates.

The State shall likewise promote the development of higher education in accordance with the needs and possibilities of the country, contribute to its financing and ensure that access to it is determined solely on the basis of the ability and suitability of the candidates.

The law shall envisage appropriate machinery for the establishment, maintenance and expansion of public and private educational establishments and shall establish the modalities and requirements for the distribution of available resources."

XIV. Right to freedom of instruction

"This Constitutional Act ensures for all individuals:

Freedom of instruction.

A special statute shall regulate the exercise of this freedom."

XV. Right to acquire any type of property

"This Constitutional Act ensures for all individuals:

Freedom to acquire ownership of any type of property, except that which by its nature is common to all mankind or should belong to the nation as a whole and is so declared to belong by law.

In specific cases and when the national interest so requires, the law may reserve to the State certain ownerless property and may also limit or establish requirements for the acquisition of ownership of certain property.

In order to promote the access of a greater number of individuals to private ownership, the law shall provide for an appropriate distribution of property and the constitution of family property."

XVI. Right of ownership

"This Constitutional Act ensures for all individuals:

The right to various kinds of ownership of all types of tangible and intangible property.

Only the law may establish the means of acquiring, using, enjoying and disposing of property and the limitations and obligations which make it possible to ensure its social function. The social function of property shall encompass the requirements of the general interest of the State, national security, public utility and health, the improved development of sources of productive energy to serve the community and the raising of the level of living of the population at large.

However, no person may in any case be deprived of his ownership, of the goods he owns or of any of the essential attributes or faculties of such ownership, except under a general or special law authorizing expropriation for reasons of public utility or social or national interest as defined by the legislature. The person whose property is expropriated may submit a claim concerning the legality of the expropriation to the ordinary courts and shall always be entitled to compensation for the loss of property actually suffered, to be fixed by mutual agreement or by a decision handed down in accordance with law by the courts concerned.

In the absence of an agreement to the contrary, compensation shall be paid in cash, either immediately or within a maximum period of five years in equal instalments, one of which shall be paid immediately and the balance in annual instalments calculated from the act of expropriation through the delivery of promissory notes issued or guaranteed by the State. In specific cases when the national interest so requires, the law may extend this time-limit to 10 years. In any case, the amount of compensation shall be paid after readjustment as from the date of expropriation so that its purchasing power remains constant and with the interest prescribed by law.

In order to take actual possession of the expropriated property it shall be necessary first to pay all of the compensation or the portion thereof to be paid immediately, which, in the absence of an agreement, shall be determined provisionally by experts in the manner prescribed by law. If a claim is submitted concerning the admissibility of the expropriation, the judge may, on the basis of the background information supplied, decree that the taking of possession shall be suspended.

However, small rural and urban properties, the workshops of craftsmen and small industrial, mining or commercial enterprises as defined by law, together with the dwelling inhabited by their owner, may not be expropriated unless the whole of the compensation is paid in advance.

A special statute shall regulate the ownership of mines and waters."

XVII. Intellectual rights

"This Constitutional Act ensures for all individuals:

The right of the author to his intellectual and artistic creations of any type, for the period prescribed by law, which shall not be shorter than the life of the person concerned. This right encompasses ownership of the works and other rights, such as the authorship, publication and integrity of the work, in conformity with the law.

Industrial property in respect of patents, trademarks, models, technical processes and other similar creations shall likewise be guaranteed for the period prescribed by law.

The provisions of the second, third, fourth and fifth subparagraphs of the preceding paragraph shall be applicable to intellectual, artistic and industrial property."

XVIII. Right to live in a pollution-free environment

"This Constitutional Act ensures for all individuals:

The right to live in a pollution-free environment. It is the duty of the State to ensure that this right is not affected and to watch over the conservation of nature.

The law may establish specific restrictions on the exercise of certain rights or freedoms in order to protect the environment.

The territorial integrity of Chile shall comprise its environmental wealth."

XIX. Right to health

"This Constitutional Act ensures for all individuals:

The right to health.

The State shall assume responsibility for guaranteeing free and equal access to measures for the promotion, protection and recovery of health and rehabilitation of the individual. It shall also be responsible for the co-ordination and control of integrated health measures.

It is a priority duty of the State to implement health measures without prejudice to free private initiative in such forms and subject to such conditions as may be determined by law."

XX. Right to freedom of work and its protection

"This Constitutional Act ensures for all individuals:

Freedom of work and its protection.

Every person has the right to work. Any discrimination not based on ability or personal qualifications shall be prohibited provided that the law may require Chilean nationality in specified cases.

Every person shall also have the right freely to choose his work and to fair remuneration ensuring him and his family at least a standard of living compatible with human dignity.

The law shall establish machinery providing for various forms of participation by the worker in the working human community constituted by the enterprise.

No type of work or industry may be prohibited unless it is incompatible with public morality, safety or health or with the requirements of the national interest and is defined as such by law.

The law shall specify the professions requiring degrees and the conditions that must be fulfilled in order to exercise them.

Membership in professional associations shall be compulsory in the cases expressly required by the law, which may only require it for the exercise of a university profession.

Membership in a trade union organization may not be stipulated as a requirement for engaging in a particular type of work.

The law shall establish suitable machinery for the equitable and peaceful settlement of labour disputes, which must involve conciliation procedures and compulsory arbitration.

Decisions regarding the dispute, in the case of arbitration, shall be taken by special expert tribunals, whose decisions shall be binding, and which shall ensure that justice is done between the parties and that the interests of the community are upheld.

In no circumstances may a strike be declared by a State or municipal employee or by persons working in enterprises providing public services or whose paralysation could cause serious damage to health, to the provision of supplies to the population, to the economy of the country or to national security."

XXI. Right to social security

"This Constitutional Act ensures for all individuals:

The right to social security.

The State shall be responsible for formulating the national social security policy, supervising the functioning of the system and ensuring the priority right of participants to conduct its operations.

The law shall establish a system of social security which uniformly, consistently and adequately satisfies individual and family needs arising out of any contingency, and especially such contingencies as maternity, old age, death, accidents, illness, disability, family responsibilities and unemployment, by means of appropriate preventive, remedial and recuperative benefits."

XXII. Right to form trade unions

"This Constitutional Act ensures for all individuals:

The right to form trade unions in fields of activities involving production or services or in a particular industry or occupation, in the cases and in the manner prescribed by law.

Trade union organizations shall have juridical personality simply by registering their statutes and constituent acts with an autonomous body, in the manner prescribed by law.

The law shall provide for machinery ensuring the independence of trade union organizations and their financing."

C. JUDICIAL REMEDIES CONTAINED IN CONSTITUTIONAL ACT No. 3

The judicial remedies which Constitutional Act No. 3 offers to all those individuals whose guaranteed rights may be impaired are as follows:

I. Remedies relating to the right to personal liberty

"Article 3. Any individual who is arrested, detained or imprisoned in violation of the provisions of this Constitutional Act or the laws may have recourse either in person or through a designated agent, to the appropriate Court of Appeals so that it may order due process of law to be observed and forthwith adopt such measures as it deems necessary to restore the rule of law and ensure due protection of the person concerned. The Court may order the individual to appear in court and its order shall be strictly obeyed by all persons responsible for prisons or places of detention. On being informed of the circumstances of the case it shall order the immediate release of such individual or arrange for any legal deficiencies to be remedied or make the individual available to the competent judge, proceeding in all respects in a prompt and summary manner and either itself remedying such deficiencies or reporting them to the proper quarters for rectification.

Similar recourse in the same form may be had on behalf of any person who is unlawfully suffering any deprivation of, interference with or threat to his right to personal freedom and personal safety. The competent Court of Appeals shall in such cases prescribe such measures referred to in the foregoing paragraph as it considers necessary to restore the rule of law and ensure due protection of the individual concerned."

II. Remedies relating to other rights

"Article 2. Any person who, as a result of arbitrary or illegal acts or omissions, suffers any deprivation of, interference with or threat to the legitimate exercise of the guarantees provided in article 1, paragraph 1; paragraph 3, fourth subparagraph; paragraphs 7, 9, 10, 11, 12 and 14; paragraph 15, first subparagraph; paragraphs 16 and 17; paragraph 19, last subparagraph; paragraph 20, eighth subparagraph; and paragraph 22, first subparagraph, or the freedom to work and the right to free choice of work, may have recourse in person or through a designated agent to the appropriate Court of Appeals, which shall adopt the necessary measures to restore the rule of law and ensure due protection of the person concerned without prejudice to any other rights which he may claim before the appropriate authority or court.

The Supreme Court shall hand down a decision (auto-acordado) governing the handling of such appeals."

D. GENERAL PROVISIONS CONTAINED IN CONSTITUTIONAL ACT No. 3

I. General provisions as such

"Article 11. No one may invoke any constitutional or legal provision to violate the rights and freedoms established in this Constitutional Act or to endanger the integrity or functioning of the State or the established regime.

Any act by persons or groups committed for the purpose of disseminating doctrines detrimental to the family, advocating violence or a concept of society based on class struggle or inimical to the established regime or the integrity or functioning of the State is unlawful and contrary to the institutional order of the Republic."

II. Amendment of the relevant articles of the Political Constitution

"Article 12. Articles 10 to 20, inclusive, of the Political Constitution of the Republic are hereby repealed, with the exception of the second and third subparagraphs of paragraph 2 of the aforesaid article 10 and without prejudice to the provisions of transitional articles 4 and 5 of this Constitutional Act."

ANNEX

CONSTITUTIONAL ACT NO. 3, DATED 11 SEPTEMBER 1976:
"CONSTITUTIONAL RIGHTS AND DUTIES"

No. 1,552

SANTIAGO, 11 September 1976

1. Whereas human rights antedating the State and the formation of human society are the raison d'être of any legal order, and hence the protection and guarantee of the basic rights of the human person are of necessity the essential basis of any State organization;
2. Whereas Chilean legal and historical tradition has been consistent with these principles and has evidenced a constant intent to enhance the rights of the individual and the procedures for ensuring their effective protection;
3. Whereas, nevertheless, the bitter experience of Chile in the years prior to 11 September 1973 demonstrated the need to strengthen and enhance the rights recognized in the Charter of 1925 and to incorporate new guarantees in accordance with contemporary constitutional doctrine and the international endorsement thereof;
4. Whereas the said guarantees include, notably, the right to life and to integrity of person, the legal protection of the life of the unborn, equality of rights between men and women, due process and the right to defence, and others which require constitutional standing and which reaffirm the worth of man as the basic unit of our society;
5. Whereas, on the other hand, the absence of any consideration and respect for the private life of individuals and their families, and for their honour, which characterized the political period preceding the present Government makes it necessary to consider this constitutional guarantee as being subject to the appropriate protective mechanisms established by this Act;
6. Whereas, freedom of opinion and information being one of the most vital freedoms in the world of today, it is necessary, while endorsing that freedom, to establish essential norms to prevent the abusive exercise thereof from infringing the rights of individuals or those higher values which govern the life of the community;
7. Whereas it is the conviction of the constituent authority that, however effective the protection of the human person may be, it remains unsatisfactory unless the full development of the individual at the various stages of his life is sought and encouraged, and it is therefore necessary to consider, in addition to freedom of instruction, the right to education and the concomitant right to dispense it which belongs to the entire national community but which begins with parents themselves, who have not only a prior right but also a duty to educate their children;
8. Whereas economic and social development must be based on a clear definition and appropriate protection of the right to own property and its social function, since this right also helps to make possible the exercise of public liberties.

9. Whereas the constituent authority cannot ignore the danger of environmental pollution, which, although not hitherto dealt with in other Constitutional Charters, represents a constant risk to the life and development of man;

10. Whereas, however perfect a declaration of rights may be, those rights are illusory unless the necessary legal remedies are provided for their due protection, one of the most vital being the creation of a new remedy for the protection of human rights in general, so that the protection of the law shall not remain limited solely to the right to freedom of person and to the remedy of amparo but shall be extended to those rights the nature of which permits such extension;

11. Whereas, with a view to the better protection of the contemplated legal order, it is provided that no one may invoke any constitutional or legal precept in order to infringe the rights recognized in this Act or to impair the integrity or functioning of the State or of the constituted régime;

12. Whereas, as a means of protecting the fundamental values on which Chilean society is based, it is necessary to declare unlawful and contrary to the institutional order of the Republic any act of individuals or groups aimed at disseminating doctrines which impair the family, advocate violence or a conception of society based on class struggle, or are contrary to the constituted régime;

13. Whereas, in accordance with the view that life in society implies the existence not only of rights but also of duties, it is necessary to provide a chapter setting forth constitutional duties, including, inter alia, respect for Chile and its emblems; the duty to honour the motherland and defend its sovereignty and integrity, to help to preserve national security, to comply with the Constitutional Acts, the Constitution and the laws, which includes the duty to obey the orders of the constituted authorities; the duty to contribute to public expenses; and the duty to feed, educate and protect one's children and to honour and succour one's parents, all of which is without prejudice to the other duties imposed by the law;

Regard being had to the provisions of Legislative Decrees Nos. 1 and 128 of 1973 and Nos. 572 and 788 of 1974;

The Council of Government, acting in exercise of the constituent power, issues the following Legislative Decree as Constitutional Act No. 3:

Legislative Decree:

CONSTITUTIONAL ACT NO. 3:

"CONSTITUTIONAL RIGHTS AND DUTIES"

CHAPTER I

CONSTITUTIONAL RIGHTS AND THEIR GUARANTEES

ARTICLE 1. Men are born free and equal in dignity. This Constitutional Act ensures for all individuals:

1. The right to life and integrity of person, without prejudice to the applicability of penalties established by law.

The law protects the life of the unborn.

The application of any unlawful coercion is prohibited.

2. Equality before the law. In Chile there are no privileged individuals or groups.

Men and women shall enjoy equal rights.

Neither the law nor the authorities may establish arbitrary discriminations.

3. Equal protection of the law in the exercise of their rights.

Everyone has the right to legal defence and no authority or individual may prevent, restrict or interfere with the due intervention of counsel if it has been requested. In the case of members of the armed forces, the forces of order and the public security forces, this right shall be governed, as regards administration and discipline, by the relevant norms of their respective regulations.

The law shall make provision for legal advice and defence in the case of those who are unable to obtain it for themselves.

No one shall be tried by special commissions, but only by the tribunal assigned to the person concerned by law and pre-established by law.

Any judgement of an organ exercising jurisdiction must be based on a lawfully conducted prior trial. The legislator shall in all cases establish guarantees of a reasonable and just proceeding.

The law may not presume de facto criminal responsibility.

In criminal cases, no offence shall be punishable by a penalty other than that specified in a law promulgated prior to the commission of the offence, unless a new law is more favourable to the accused.

4. Access to all public employment and public office, without any requirements other than those imposed by the Constitutional Acts, the Constitution and the laws.

5. Equitable taxation, in proportion to wealth or in the progression or form established by law, and equitable distribution of other public charges.

6. The right to personal liberty and security of person and, consequently, the right to reside and remain at any place in the Republic, the right of movement from place to place and the right to enter and leave the territory of the Republic, subject to observance of the norms established by law and saving any prejudice to other persons.

(a) No one shall be deprived of or restricted in his personal liberty, except in the cases and in the manner laid down by the Constitutional Act, the Constitution and the laws.

(b) No one shall be arrested or detained except by order of a public officer expressly empowered thereto by law and after the person concerned has been notified of such order in due legal form. However, a person taken in flagrante delicto may be detained solely for the purpose of placing him at the disposal of the competent judge within the following 24 hours.

If the authorities cause any person to be arrested or detained, they shall, within the following 48 hours, notify the competent judge and place the person concerned at his disposal. The judge may, by an order stating the reasons, extend that time-limit to not more than five days.

(c) No one shall be arrested or detained, or held in custody or committed to prison pending trial, except in his home or in public places intended for that purpose.

The prison authorities shall not admit anyone to prison as an arrested or detained person or a person committed pending trial without recording the order for his admission, issued by the legally empowered authority, in a register which shall be public.

The fact that a person arrested or detained, or committed to prison pending trial, is being held incommunicado shall not prevent the officer in charge of the house of detention from visiting him. The said officer shall be required, whenever so requested by the arrested or detained person, to transmit to the competent judge a copy of the detention order, or to demand that a copy thereof should be given to him, or to give him a certificate evidencing that the person in question is under detention, if at the time of his detention this requirement was not complied with.

(d) Provisional release is a right of the person detained or placed in custody pending trial. It shall in all cases be granted, unless detention or custody pending trial is considered by the judge to be strictly necessary for the purpose of the preliminary examination or for the safety of the victim of the offence or of society. The requirements and procedures for obtaining provisional release shall be established by law.

(e) In criminal cases, the accused shall not be obliged to testify under oath concerning his own act; the same shall apply to his ascendants, his descendants, his spouse and such other persons as may, according to the case and the circumstances, be specified by law.

There shall not be imposed as punishment the loss of acquired rights or the penalty of confiscation of property, without prejudice to the attachment of property in cases specified by law.

However, the penalty of confiscation of property shall be permissible in the case of unlawful associations.

(f) In the event of the definitive termination of proceedings (sobreseimiento) or acquittal, a person who has been tried or convicted in any court as a result of a judicial decision which the Supreme Court declares to have been unjustifiably in error or arbitrary shall be entitled to compensation from the State for any material and moral damage suffered by him. The amount of compensation shall be judicially determined in brief summary proceedings at which the evidence shall be appraised on the basis of equity.

7. The right to unarmed peaceful assembly without prior authorization. In public squares, streets and other public places, assemblies shall be governed by the general provisions laid down by law.

8. The right to petition the authorities on any matter of public or private interest, without any limitation other than the requirement to proceed in respectful and appropriate terms.

The authorities shall reply to any petitions addressed to them, in accordance with the norms established by law.

9. The right to form associations without prior authorization.

Associations must be constituted in accordance with the law in order to enjoy legal personality.

No one may be compelled to belong to an association, save as provided in paragraph 20, sixth subparagraph, of this article.

Associations contrary to morality, public order and the security of the State are prohibited.

10. Respect for and protection of the private life and honour of the individual and his family.

The inviolability of the home and all forms of private communication. Homes may be entered and private communications and documents intercepted, opened or recorded only in the cases and according to the formalities prescribed by law.

11. Freedom of conscience, the manifestation of all beliefs and the free exercise of all religions that are not contrary to morality or public order; consequently, the various religious faiths may build and maintain places of worship and their appurtenances provided they meet the safety and health conditions prescribed by law.

12. Freedom to express opinions and to disseminate information without prior censorship, in any form and through any medium, without prejudice to the responsibility that may be incurred for offences and abuses committed in the exercise of these freedoms, in conformity with the law. However, the courts may prohibit the publication or dissemination of opinions or information affecting morality, public order, national security or the private life of individuals.

The law shall establish a censorship system for the exhibition of cinematographic productions and the advertising therefor.

Similarly, this Constitutional Act guarantees the right to receive truthful, timely and objective information on national and international affairs, with no limitations other than those set forth in the first subparagraph of this paragraph.

Any natural or legal person offended or unjustly referred to by any social communication medium is entitled to have his explanation or correction disseminated free of charge in the conditions prescribed by law by that same social communication medium.

Every natural or legal person shall have the right to establish and publish newspapers, magazines and periodicals in the conditions prescribed by law.

An autonomous National Radio and Television Council shall be established, whose membership, method of operation and attributions shall be prescribed by law, which shall ensure that radio and television broadcasting fulfil the purposes of disseminating information and promoting the educational objectives set forth in this Constitutional Act.

The methods of granting, renewing and withdrawing radio broadcasting concessions shall be established by law.

The State, and the universities and other persons specified by law, may establish and operate television stations.

No person who has been sentenced to penal servitude or for an offence against the institutional order of the Republic as defined by law may be the owner, director or administrator of a social communication medium, or perform in connexion with such medium duties relating to the broadcasting or dissemination of opinions or information.

The regime relating to the ownership and operation of social communication media may only be amended by law.

The expropriation of social communication media may be effected only by virtue of a special law authorizing such expropriation, against prior payment of compensation.

13. The right to education.

The objective of education is the full development of the individual at the various stages of his life and to that end an effort shall be made to promote among those being educated a sense of moral, civic and social responsibility; love of their country and its fundamental values; and respect for the dignity of the human being and the spirit of brotherhood among individuals and of peace among peoples.

Parents have a prior right to educate their children, and the right to choose the educational establishment. The State shall grant special protection to the exercise of these rights.

It is the duty of the national community to contribute to the development and improvement of education. The State shall meet educational requirements as one of its priority functions.

Basic education is mandatory. The State shall maintain the free schools necessary to that end and ensure access to middle-level education for those graduating from the basic level, the only criterion being the abilities of the candidates.

The State shall likewise promote the development of higher education in accordance with the needs and possibilities of the country, contribute to its financing and ensure that access to it is determined solely on the basis of the ability and suitability of the candidates.

The law shall envisage appropriate machinery for the establishment, maintenance and expansion of public and private educational establishments and shall establish the modalities and requirements for the distribution of available resources.

14. Freedom of instruction.

A special statute shall regulate the exercise of this freedom.

15. Freedom to acquire ownership of any type of property, except that which by its nature is common to all mankind or should belong to the nation as a whole and is so declared to belong by law.

In specific cases and when the national interest so requires, the law may reserve to the State certain ownerless property and may also limit or establish requirements for the acquisition of ownership of certain property.

In order to promote the access of a greater number of individuals to private ownership, the law shall provide for an appropriate distribution of property and the constitution of family property.

16. The right to various kinds of ownership of all types of tangible and intangible property.

Only the law may establish the means of acquiring, using, enjoying and disposing of property and the limitations and obligations which make it possible to ensure its social function. The social function of property shall encompass the requirements of the general interest of the State, national security, public utility and health, the improved development of sources of productive energy to serve the community and the raising of the level of living of the population at large.

However, no person may in any case be deprived of his ownership, of the goods he owns or of any of the essential attributes or faculties of such ownership, except under a general or special law authorizing expropriation for reasons of public utility or social or national interest as defined by the legislature. The

person whose property is expropriated may submit a claim concerning the legality of the expropriation to the ordinary courts and shall always be entitled to compensation for the loss of property actually suffered, to be fixed by mutual agreement or by a decision handed down in accordance with law by the courts concerned.

In the absence of an agreement to the contrary, compensation shall be paid in cash, either immediately or within a maximum period of five years in equal instalments, one of which shall be paid immediately and the balance in annual instalments calculated from the act of expropriation through the delivery of promissory notes issued or guaranteed by the State. In specific cases when the national interest so requires, the law may extend this time-limit to 10 years. In any case, the amount of compensation shall be paid after readjustment as from the date of expropriation so that its purchasing power remains constant and with the interest prescribed by law.

In order to take actual possession of the expropriated property it shall be necessary first to pay all of the compensation or the portion thereof to be paid immediately, which, in the absence of an agreement, shall be determined provisionally by experts in the manner prescribed by law. If a claim is submitted concerning the admissibility of the expropriation, the judge may, on the basis of the background information supplied, decree that the taking of possession shall be suspended.

However, small rural and urban properties, the workshops of craftsmen and small industrial, mining or commercial enterprises as defined by law, together with the dwelling inhabited by their owner, may not be expropriated unless the whole of the compensation is paid in advance.

A special statute shall regulate the ownership of mines and waters.

17. The right of the author to his intellectual and artistic creations of any type, for the period prescribed by law, which shall not be shorter than the life of the person concerned. This right encompasses ownership of the works and other rights, such as the authorship, publication and integrity of the work, in conformity with the law.

Industrial property in respect of patents, trademarks, models, technical processes and other similar creations shall likewise be guaranteed for the period prescribed by law.

The provisions of the second, third, fourth and fifth subparagraphs of the preceding paragraph shall be applicable to intellectual, artistic and industrial property.

18. The right to live in a pollution-free environment. It is the duty of the State to ensure that this right is not affected and to watch over the conservation of nature.

The law may establish specific restrictions on the exercise of certain rights or freedoms in order to protect the environment.

The territorial integrity of Chile shall comprise its environmental wealth.

19. The right to health.

The State shall assume responsibility for guaranteeing free and equal access to measures for the promotion, protection and recovery of health and rehabilitation of the individual. It shall also be responsible for the co-ordination and control of integrated health measures.

It is a priority duty of the State to implement health measures without prejudice to free private initiative in such forms and subject to such conditions as may be determined by law.

20. Freedom of work and its protection.

Every person has the right to work. Any discrimination not based on ability or personal qualifications shall be prohibited provided that the law may require Chilean nationality in specified cases.

Every person shall also have the right freely to choose his work and to fair remuneration ensuring him and his family at least a standard of living compatible with human dignity.

The law shall establish machinery providing for various forms of participation by the worker in the working human community constituted by the enterprise.

No type of work or industry may be prohibited unless it is incompatible with public morality, safety or health or with the requirements of the national interest and is defined as such by law.

The law shall specify the professions requiring degrees and the conditions that must be fulfilled in order to exercise them.

Membership in professional associations shall be compulsory in the cases expressly required by the law, which may only require it for the exercise of a university profession.

Membership in a trade union organization may not be stipulated as a requirement for engaging in a particular type of work.

The law shall establish suitable machinery for the equitable and peaceful settlement of labour disputes, which must involve conciliation procedures and compulsory arbitration.

Decisions regarding the dispute, in the case of arbitration, shall be taken by special expert tribunals, whose decisions shall be binding, and which shall ensure that justice is done between the parties and that the interests of the community are upheld.

In no circumstances may a strike be declared by a State or municipal employee or by persons working in enterprises providing public services or whose paralysation could cause serious damage to health, to the provision of supplies to the population, to the economy of the country or to national security.

21. The right to social security.

The State shall be responsible for formulating the national social security policy, supervising the functioning of the system and ensuring the priority right of participants to conduct its operations.

The law shall establish a system of social security which uniformly, consistently and adequately satisfies individual and family needs arising out of any contingency, and especially such contingencies as maternity, old age, death, accidents, illness, disability, family responsibilities and unemployment, by means of appropriate preventive, remedial and recuperative benefits.

22. The right to form trade unions in fields of activities involving production or services or in a particular industry or occupation, in the cases and in the manner prescribed by law.

Trade union organizations shall have juridical personality simply by registering their statutes and constituent acts with an autonomous body, in the manner prescribed by law.

The law shall provide for machinery ensuring the independence of trade union organizations and their financing.

CHAPTER II

JUDICIAL REMEDIES

Article 2. Any person who, as a result of arbitrary or illegal acts or omissions, suffers any deprivation of, interference with or threat to the legitimate exercise of the guarantees provided in article 1, paragraph 1; paragraph 3, fourth subparagraph; paragraphs 7, 9, 10, 11, 12 and 14; paragraph 15, first subparagraph; paragraphs 16 and 17; paragraph 19, last subparagraph; paragraph 20, eighth subparagraph; and paragraph 22, first subparagraph, or the freedom to work and the right to free choice of work, may have recourse in person or through a designated agent to the appropriate Court of Appeals, which shall adopt the necessary measures to restore the rule of law and ensure due protection of the person concerned without prejudice to any other rights which he may claim before the appropriate authority or court.

The Supreme Court shall hand down a decision (auto-acordado) governing the handling of such appeals.

Article 3. Any individual who is arrested, detained or imprisoned in violation of the provisions of this Constitutional Act or the laws may have recourse, either in person or through a designated agent, to the appropriate Court of Appeals so that it may order due process of law to be observed and forthwith adopt such measures as it deems necessary to restore the rule of law and ensure due protection of the person concerned. The Court may order the individual to appear in court and its order shall be strictly obeyed by all persons responsible for prisons or places of detention. On being informed of the circumstances of the case it shall order the immediate release of such individual or arrange for any legal deficiencies to be remedied or make the individual available to the competent judge, proceeding in all respects in a prompt and summary manner and either itself remedying such deficiencies or reporting them to the proper quarters for rectification.

Similar recourse in the same form may be had on behalf of any person who is unlawfully suffering any deprivation of, interference with or threat to his right to personal freedom and personal safety. The competent Court of Appeals shall in such cases prescribe such measures referred to in the foregoing paragraph as it considers necessary to restore the rule of law and ensure due protection of the individual concerned.

CHAPTER III

CONSTITUTIONAL DUTIES

Article 4. Every inhabitant of the Republic owes respect to Chile and its national emblems.

Article 5. Every Chilean has the fundamental duty to honour his country, defend its sovereignty and its territorial integrity and help to preserve national security and the essential values of the Chilean tradition.

Article 6. Military service and other personal obligations required by law shall be compulsory in accordance with the conditions and in the manner prescribed by law.

All Chileans capable of bearing arms must be entered on the military registers unless especially exempted by law.

Article 7. The duty to respect the Constitutional Acts, the Constitution and the laws makes it compulsory for all persons, institutions or groups to obey orders given by the constituted authorities in the performance of their functions.

Article 8. All persons have the duty to contribute to public expenditure in the manner and in the cases prescribed by law.

Article 9. All persons have the duty to feed, educate and care for their children in accordance with the law. Children must honour their parents, assist them in case of need and, if minors, respect their legitimate authority.

Article 10. The provisions contained in this Chapter shall not prejudice any other duties prescribed by law.

CHAPTER IV

GENERAL PROVISIONS

Article 11. No one may invoke any constitutional or legal provision to violate the rights and freedoms established in this Constitutional Act or to endanger the integrity or functioning of the State or the established régime.

Any act by persons or groups committed for the purpose of disseminating doctrines detrimental to the family, advocating violence or a concept of society based on class struggle or inimical to the established régime or the integrity or functioning of the State is unlawful and contrary to the institutional order of the Republic.

Article 12. Articles 10 to 20, inclusive, of the Political Constitution of the Republic are hereby repealed, with the exception of the second and third subparagraphs of paragraph 2 of the aforesaid article 10 and without prejudice to the provisions of transitional articles 4 and 5 of this Constitutional Act.

TRANSITIONAL ARTICLES

Article 1. Pending the institution of arrangements to implement the provisions of the second subparagraph of article 1, paragraph 2, of this Act, the legal rules currently in force shall continue to apply.

Article 2. Within a period of one year from the publication in the Official Gazette of this Constitutional Act, a law shall be issued concerning the membership and operation of the body envisaged in article 1, paragraph 12, sixth subparagraph, and in the meantime the legal provisions which are now in force and which regulate this question shall continue to remain valid.

Article 3. Within a period of 180 days from the date on which this Constitutional Act enters into force, there shall be issued the organic law on expropriations which shall conform to the constitutional provisions which have been promulgated.

The expropriations which have been decided upon before the entry into force of this Act, shall continue to be governed, until they are completed and the appropriate compensation has been paid, by the provisions in force on the date of the promulgation of this Constitutional Act.

The expropriations which are decided upon or decreed during the period of six months referred to in the first paragraph shall be governed by the pertinent laws to the extent that they are not contrary to this Constitutional Act. In such a case, the compensation determined in conformity with those laws shall be considered to be provisional.

Notwithstanding the provisions of the foregoing paragraph, the law may establish special regulations as regards the taking of material possession, if it is a question of the expropriation of lands intended for housing which the law in question describes as "social".

Article 4. Pending the issuance of the Special Statute referred to in article 1, paragraph 16, seventh subparagraph, of this Act, the provisions of paragraphs 4, 5, 6 and 10 of the Political Constitution of the Republic shall remain in force.

The big copper-mining companies and assimilated enterprises, which have been nationalized by virtue of transitional paragraph 17 of the Political Constitution shall continue to be governed by the constitutional provisions in force on the date of promulgation of this Constitutional Act.

Article 5. Pending the issuance of the Special Statute referred to in article 1, paragraph 14, second subparagraph of this Act, there shall remain in force the provisions of article 10, paragraph 7 of the Political Constitution of the Republic, to the extent that they are compatible with the Constitutional Act, the Act establishing the Council of Government and any regulation issued in conformity with that Act, the Declaration of Principles of that Act, of 11 March 1974, and the document entitled "National Objective of Chile", of 23 December 1975.

Article 6. Notwithstanding the provisions of article 1, paragraph 20, sixth subparagraph of this Act, there shall remain in force the laws which have established the registration (Colegiación) of non-university activities or professions prior to the entry into force of these constitutional provisions, so long as they are not modified.

Article 7. The suspension of the validity of article 9 of the Political Constitution of the Republic shall be maintained in conformity with the law.

Article 8. This Constitutional Act shall enter into force on 18 September 1976.

To be registered in the Office of the Controller of the Republic, to be published in the Official Gazette and to be included in the Official Records of the Inspectorate. AUGUSTO PINOCHET UGARTE, General of the Army, President of the Republic. JOSE T. MERINO CASTRO, Admiral, Commander-in-Chief of the Navy. GUSTAVO LEIGH GUZMAN, General, Commander-in-Chief of the Air Force. CESAR MENDOZA DURAN, General, Director-General of Carabineros.