



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE

Thirty-second session

SUMMARY RECORD OF THE 605th MEETING

Held at the Palais Wilson, Geneva,  
on Tuesday, 11 May 2004, at 3 p.m.

Chairperson: Mr. MARIÑO MENÉNDEZ

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 19 OF THE CONVENTION (agenda item 6) (continued)

Third periodic report of Chile (continued) (CAT/C/39/Add.14, CAT/C/32/L/CHL,  
HRI/CORE/1/Add.103, written replies (Spanish only))

1. At the invitation of the Chairperson, the members of the delegation of Chile took places at the Committee table.
2. Mr. MARTABIT (Chile) said that, as the English press release seemed to have omitted some of the substantive elements of the presentation made during the previous session, written comments had been prepared for clarification, which would be distributed at a later stage.
3. The delegation had identified three principal areas of concern, and individual answers would be grouped together under those headings: constitutional and legal issues, issues related to political and institutional administration, and concrete information on judicial proceedings.
4. Ms. ESQUIVEL (Chile), referring to the proposed transfer of responsibility for the Carabineros and the Investigations Police from the Ministry of Defence to the Ministry of the Interior, said that, since the security forces were referred to in article 90 of the Constitution, any modification would involve a constitutional amendment, and therefore required the approval of two thirds of the deputies and senators in office. To reach such a high quorum, the Government required the support of the opposition, but despite years of negotiations no agreement had yet been reached.
5. Mr. QUEZADA (Chile) said that the definition of the offence of torture in the Chilean Penal Code (art. 150) might give the impression that it did not correspond to that given in the first article of the Convention, as it was separated into three different parts: the old article 150, which made only indirect reference to torture, and the two new provisions (arts. 150 A and 150 B), which contained the elements of the definition. According to the Penal Code, the perpetrators of the offence of torture could be not only public servants but also any other persons who committed such acts. Torture and ill-treatment could be inflicted in respect of a person deprived of his liberty, but the physical place where torture could be committed was not limited to prison compounds or detention centres. If the offence was committed in the victim's home, other offences might be chargeable, such as kidnapping, illegal detention or breaking and entering.
6. Regarding the penalties for torture, prison sentences ranged from 541 days to 15 years for the most serious cases leading to severe injury or death. The maximum limitation period for the offence of torture, which depended on the severity of the penalty, was 10 years. For crimes which carried a penalty of life imprisonment, the maximum limitation period was 15 years.
7. There was a clear need to reform military jurisdiction, which was excessive when compared with the situation in the majority of democratic countries. In 1991, the Cumplido Acts had removed some offences affecting civilians from military jurisdiction, such as the illegal possession or carrying of firearms. Offences committed by Carabineros officers in the exercise

of their duties, on the other hand, came under military jurisdiction, in accordance with the Code of Military Justice. They included the offence of unnecessary violence, which from the criminal law perspective included torture, as defined in the Penal Code. The maximum penalty for that offence was also 15 years of imprisonment. Conflicts between the jurisdiction of the military and civil courts were resolved in the Criminal Division of the Supreme Court, in the presence of the five regular members and the General Assessor of the army.

8. A confusion had arisen in relation to the statistics contained in paragraph 108 of the periodic report (CAT/C/39/Add.14), which referred to judicial proceedings initiated by the Sixth Military Prosecutor's Office. The cases which appeared in the convictions column had not been entered in the prosecutions column, because they had already reached a later stage of criminal proceedings. Regarding "due obedience", it was true that there were no bills currently pending to eliminate those grounds for exemption from responsibility. It was hoped that the matter would be reviewed in the light of reforms of the criminal justice system and criminal procedure.

9. With regard to the Amnesty Decree-Law of 1978, a draft bill had been tabled some years earlier by a group of senators with the aim of reinterpreting the decree in the light of international law. However, that proposal had not been processed, as any amendment concerning amnesty required a special quorum. It should be noted, however, that the case law of the Supreme Court had gradually changed since 1997, and amnesty had ceased to apply in certain circumstances. The repeal of the amnesty law was unlikely, however, since in any case under the Constitution Congress did not have the power to abrogate legislation. The Government had preferred to leave the interpretation of the decree to the courts, which could choose not to grant amnesty, particularly with regard to serious offences relating to persons executed for political reasons, or to detained and disappeared persons.

10. The Committee had pointed out that there could be a contradiction between the principle of non-refoulement in the Convention and the same principle in the 1951 Convention on the Status of Refugees, as the latter contained an exception to the principle. The provision in the Convention was more favourable than that of the Convention on Refugees in terms of protection of a person who feared being tortured on return to the country of origin. In the event of the concurrence of two provisions, the courts would apply the one that was most favourable to the person concerned, which in that case was the Convention against Torture.

11. Mr. CORNEJO (Chile) said that identity checking was a different process to detention on suspicion, and was carried out in cases where there was evidence that the person had committed an offence, or planned to do so, or could provide useful information for an investigation into an offence. Identity could be established by means of an identity card, driving licence or passport, and the maximum time allowed to do so was six hours. If identity was falsified or concealed, the police officer could detain the person. He would then immediately inform the Office of the Public Prosecutor, which could order that the person be released or brought immediately before the Office. In either case, the police verbally informed the person of his rights, which included informing family members of his presence at the police station. In no circumstances could the person be locked up in a cell or imprisoned. For the implementation of that legal amendment, both police forces had been trained, and procedures had been established to ensure effective and prompt identification.

12. Mr. SALINAS (Chile), responding to the question on the ranking of international treaties, said that the issue of the incorporation of international law, particularly human rights instruments, into domestic legislation had been a matter of long-standing debate. The constitutional reform of 1989 required State organs to respect and promote essential rights, particularly those protected by international treaties that had been ratified by the State. Although that reform had opened the way for the incorporation of international law into the domestic legal order, the high courts of justice had been slow in doing so, particularly with regard to international human rights law. Fortunately, the trend had been gaining ground and a body of interesting, though not entirely consistent, case law had been produced, in which the Supreme Court and the appeal courts had recognized provisions of international treaties in their judgements. The new courts that had been created through the process of criminal procedural reform had been more open to incorporating provisions of international law, and particularly human rights law, into their decisions. Participants in the national legal debate had also been quoting international law in their arguments.

13. The round-table process ("Mesa de Diálogo") had been initiated in 1999 by the Government with a view to determining the truth and ensuring that justice prevailed in the most severe cases of human rights violations, such as disappeared persons and persons executed for political reasons under the military regime. The armed forces had undertaken to provide information regarding the whereabouts of persons who had been reported disappeared. Although the amount of information submitted had not lived up to expectations, the whereabouts of some 200 persons had been established, and that information had immediately been submitted to the courts to begin the necessary investigations. Unfortunately, part of the information had turned out to be inaccurate. Nonetheless the round table had been significant insofar as new information had been obtained and existing information corroborated, which had allowed for new legal cases to be opened. A dialogue and climate of cooperation had also been established between the armed forces and State institutions and civil society.

14. Mr. LIZAMA (Chile) said that in the course of modernizing the army, efforts had been made to incorporate ethical values into the training of armed forces personnel. Training on human rights and international humanitarian law in armed conflicts had been introduced into military training at all levels, with a view in particular to inculcating the principle of accountability at all ranks of command. Human rights training had been added for peacekeeping forces, and in the air force training had been provided on human rights and international humanitarian law. The Gendarmería of Chile had focused its training programmes on two groups: new recruits, who received human rights training at all levels, and personnel on active duty, for whom human rights seminars and training sessions were held, with assistance from foreign organizations such as the British Council and the German Agency for Technical Cooperation. Such efforts had aided the incorporation of human rights into Chile's criminal procedure reform. Seminars were also held for the Carabineros and the Investigations Police.

15. Ms. ESQUIVEL (Chile) said that the National Commission on Political Imprisonment and Torture aimed to determine the status of victims deprived of their liberty or tortured by State agents. The Commission investigated only politically motivated cases. Although it had been estimated that 70,000 cases could potentially be brought to the Commission's attention, as yet only 22,000 cases had been filed. Such a reduced figure could be explained by the victims' psychological need to suppress the suffering that they had endured, or by the fact that they were unaware that the treatment they had received could be classified as torture. The role of the

Commission was to compile background information on each case, and to present a confidential report to the President of the Republic after six months. It was possible that the deadline for the report could be extended by a further three months, should the Commission require it.

Regarding statistics, 10 per cent of the cases that were being investigated by the Commission related to women, but all further information was confidential.

16. Mr. ANDRUSCO (Chile) said that there were ongoing monitoring mechanisms for the uniformed police, to ensure legality and respect for dignity and human rights. There was a permanent inspectorate for the Carabineros, to ensure that detainees' rights were not violated. Inspections were also carried out by the Department for Criminal Procedural Reform to ensure ongoing communication with the Public Prosecutor's Office and assess the procedures used by the Carabineros within the context of that reform. Each police station had a command structure, which assigned specific responsibilities to each member of staff, and a permanent official to monitor detention conditions. A national re-training centre had been opened for the Carabineros, to focus on improving police services and ensuring respect for human rights and dignity.

17. Mr. CORNEJO (Chile) said that the General Inspectorate monitored the procedures of the Investigations Police, to check for possible infringements of laws and administrative regulations. In addition, the Department of Internal Affairs carried out investigations into incidences of misconduct, placing particular emphasis on respect for human rights. The Department for Criminal Procedural Reform had established a task force for the investigation of questions raised by judges and institutions within their area of activity. The Higher Council on Police Ethics monitored police behaviour and supervised observance of the Code of Police Ethics. The Educational Ethics Council was an academic institution for training Investigations Police officers in ethical conduct and human rights issues. It also published training manuals. Lastly a patrol service (Jefes de Ronda) carried out selective, unannounced inspections of a variety of police units, to check on the quality of service and the conditions in which detainees were held, and to ensure that all police work was being carried out according to recognized legal standards.

18. Mr. LIZAMA (Chile) said that the activities of the Gendarmería (Prison Service) were monitored by the Chilean legal authorities. Prisons were visited on a regular basis, in order to allow the judicial authorities to receive complaints or petitions from detainees. Magistrates supervised the execution of sentences of imprisonment and the Office of the Public Criminal Defender assisted detainees until the completion of their sentences. National, regional and local authorities gave instructions on the attention and treatment to be given to prison inmates and their relatives and friends. In the event that a prisoner made a complaint, those charged with investigating it would be of a higher rank than the officials implicated in the case. Particularly complex cases involving high-level officials were passed on to an administrative verification unit, where they were investigated by judges and high-ranking legal staff. Complaints formulated by detainees could also be addressed to political and administrative authorities.

19. Mr. SALINAS (Chile) said that considerable efforts had been made to ensure the success of the criminal procedure reform, from both a material and an institutional point of view. However, the implementation of the reform in the Metropolitan region had been postponed for budgetary reasons. The reform would have meant an increase in the budgetary allocation for the police and forensic departments, which would have meant a decrease in the budgetary allocation for the Ministry of Justice. That in turn would have led to reductions in the number of prosecutors contracted.

20. Regarding compensation, on an initiative of the President of the Republic, a new process was being developed to ease the suffering caused by human rights violations during Chile's military dictatorship. Several reparation procedures had been implemented, including the grant of financial compensation to the families of victims, and measures to provide moral and psychological assistance where necessary.

21. Mr. METTIFOGO (Chile) said that there was an authorized list of institutions that could hold detainees under the age of 18. Holding a minor in detention without authorization was punishable by disciplinary measures. Minors had to be brought before a competent court if suspected of an offence. If the offence was confirmed, the court in question could sentence the minor to deprivation of liberty. Detention centres had separate facilities for minors, who could not be held with adult prisoners. Detention facilities for minors did not have punishment cells.

22. The Government was considering the cultural changes that needed to be made in Chile regarding children. The treatment of children was considered to be of particular importance, and the Government believed that children should be recognized as legal subjects. In that regard, the Government wished to promote and apply a special system. In 1998, the Government had abolished a provision in the Civil Code, which had allowed moderate punishment by parents as an aid to socialization. Changes had also been made to ensure that paternity and maternity could be recognized for children born out of wedlock. In 2002, a series of laws on minors had been adopted, which established separate procedures for children suspected of an offence or whose rights had been violated. A list of protective measures had been specified, to ensure that material pressure on the part of parents was reduced. The Labour Code had also been amended in order to protect children's rights and the Constitution had been changed to make secondary education compulsory. Free secondary education was provided for all children up to the age of 12.

23. In 1999, legislative changes had increased the protection of young people against sexual abuse. The legal definition of sexual crimes had been broadened and victims of sexual abuse were no longer required to face their aggressors in court. Legislation on child pornography had also been amended and the age of sexual consent raised to 14. Additional measures were being taken by several government ministries, in order to promote youth activities, sport and children's rights.

24. Ms. ESQUIVEL (Chile) said that Chile intended to ratify the Optional Protocol to the Convention against Torture as soon as possible. The ratification was currently under discussion in the Ministry of the Interior and the Ministry of Justice.

25. Mr. LIZAMA (Chile) said that prisons and detention centres in Chile were affected by overcrowding, staff shortages and antiquated buildings and infrastructure. Overcrowding meant that adequate supervision was extremely difficult to achieve. The fact that prisons were understaffed meant that warders and officials worked long hours, a factor which was dangerous not only for their own health, but also for the well-being of detainees. Regarding the lack of infrastructure, efforts had been made to build new facilities in existing establishments and to improve the living conditions of inmates. Extra funding would be required in order to increase the number of prison staff and improve the treatment of detainees. The Government was determined to improve the situation in prisons, but the funding required would mean a reduction in government allocations to the health and education sectors. A programme had been established to encourage private sector cooperation for the building of new prisons and the

renovation of old ones. The new facilities focused on providing individual cells with guaranteed access to bathrooms, adequate ventilation systems and access to both natural and artificial light. Plans were also being made to improve medical and pharmaceutical facilities for prisoners.

26. Regarding sexual abuse in prisons, the national, regional and local penitentiary authorities provided instructions on conditions of custody to be applied to all persons deprived of liberty, regardless of the offences they had committed. Specific instructions applied to certain categories of detainees, such as sex workers, who were detained separately from other prisoners. If an officer became aware that an offence had taken place within the institution, he or she must report it to a higher authority. Failure to do so could have administrative repercussions. Monitoring of the conditions and treatment of detainees was a priority, and efforts were made to optimize the human and material resources available.

27. Mr. CORNEJO (Chile), responding to a question about “Colonia Dignidad”, said that the case had been investigated both by the Carabineros and by the Investigations Police. The judge currently handling the case had left no stone unturned, ordering countless measures by local police officers and special task forces in Santiago. It had not been established whether the Villa Baviera cemetery contained the remains of disappeared prisoners. Proceedings had been instituted against 15 persons for offences against juveniles and against 1 person for abduction of a disappeared person.

28. Mr. Salazar Campos had been detained by the Investigations Police in May 2003 on a charge of robbery with assault. He had been taken to an emergency medical centre, where the doctor on duty had found no discernible injuries. On being taken into custody, he had again been subjected to a medical examination with the same result. The following month, Mr. Salazar Campos had filed a complaint of ill-treatment against the arresting officers, claiming that electricity had been applied to his testicles and temples. A judicial investigation had been initiated and investigations were still under way. An administrative investigation within the Investigations Police Force had concluded that the complaint had not been substantiated.

29. Mr. ANDRUSCO (Chile) said that the Investigations Police and the Carabineros afforded protection to judges who were investigating human rights violations. They also responded to requests from the Ministry of the Interior and the judicial authorities for protection of prominent individuals, including human rights defenders. He mentioned in particular the lawyer Fabiola Letelier, the Member of Parliament Juan Bustos and the Santiago Appeal Court Judge Juan Guzmán, who was conducting proceedings against General Augusto Pinochet.

30. Mr. QUEZADA (Chile) said that Operation Condor had been launched by the countries of the Southern Cone in the 1970s and was currently being investigated in both Chile and Argentina. The investigation in Chile was being conducted by Judge Guzmán and an outcome was expected in the short or medium term. The Santiago Appeal Court was also considering a request for extradition of Mr. Pinochet. On two previous occasions, however, the same court had rejected requests to lift Mr. Pinochet’s immunity.

31. Mr. SALINAS (Chile), responding to a question regarding the application of article 6 of the Convention to torture suspects present in Chilean territory, said that no such case had arisen to date.

32. With regard to article 15, mechanisms had been introduced as part of the reform of criminal procedure to ensure that testimony which might have been obtained under unlawful pressure or torture would be considered inadmissible as evidence. Prosecutors were in a position to identify cases in which the police had applied unlawful pressure during questioning. Moreover, public defenders had access to all information at every stage of the investigation. Another preventive mechanism was the “Tribunal de Garantías” (safeguards court), which monitored the conduct of prosecutors to ensure that basic human rights were protected.

33. Ms. GAER (Country Rapporteur) said she highly appreciated the detailed responses provided by the delegation.

34. She understood that issues such as amnesty were not being pursued by the Government but were being left to the courts. In that context she wondered whether the transition from an inquisitorial to an adversarial system in Chile had led to a significant turnover in the judiciary, whether judges were giving training in the adversarial approach and how independence and impartiality were maintained. Had any of the judges involved in sensitive political cases come under pressure and how were they protected from reprisals?

35. She had heard two seemingly conflicting responses to the Committee’s question about whether acts of torture carried out in a person’s home fell within the definition of torture in Chilean legislation. One response was that the legislation was silent on the matter but another seemed to imply that only acts committed in a State-run location came within the scope of the definition. In one case the Human Rights Commission had apparently rejected a complaint on the ground that an act committed by a public official in the home was not considered to be torture.

36. Noting that military jurisdiction for some offences had been suspended in 1991, she asked whether all offences committed by Carabinero officers in the performance of their duties still fell under military jurisdiction.

37. She understood that a bill was being submitted to Parliament to amend the legislation regarding due obedience. Was the Government actively seeking to expedite the procedure?

38. With regard to the lower than expected number of complaints received by the National Commission on Political Imprisonment and Torture, it was plausible that victims might refrain from approaching the Commission for psychological reasons or might not be aware that the treatment to which they had been subjected qualified as torture. In that connection, she suggested that the Government might recommend to the Commission that it take extra steps to explain its definition of torture to the general public, informing them, for example, that rape and sexual violence could also constitute acts of torture.

39. While she understood the technical, financial and bureaucratic reasons for delaying the criminal procedure reform process in the Santiago metropolitan area, she wondered whether there was any reason why some human rights protections such as the 24-hour maximum detention rule could not be implemented with immediate effect. Had the impact of the reform process elsewhere in the country been evaluated and, if so, had any particular problems been identified? Were there safeguards in place for victims suffering from trauma?

40. According to the delegation, 10 new prisons were to be built with the assistance of the private sector. She asked whether the private sector would also be involved in running the facilities and in guarding prisoners. If so, what steps would be taken to ensure the accountability of private prison staff?

41. With regard to article 15 of the Convention, she was concerned about allegations that individuals had been denied treatment in public hospitals until they provided testimony under coercion, which was then used as evidence. Were there any plans to investigate and halt such practices?

42. She asked whether there were any channels comparable to the Office of the Solicitor-General in the United States, through which the Government could express its concerns to the courts regarding proceedings in which individuals presented allegations of torture or other abuses under the Convention.

43. Was sexual abuse in prisons monitored and, if so, with what results?

44. In general, the Committee would appreciate any additional statistical information the State party could provide on any of the issues raised during the dialogue.

45. Mr. SALINAS (Chile) said that one factor that had delayed implementation of the criminal procedure reform in the Santiago metropolitan area was the need to train police officers serving an area that accounted for about 60 per cent of the country's population. Many observers actually considered that the phased introduction of the reforms was a guarantee of their success, since valuable lessons were learned in the process and problems were progressively resolved. Even partial implementation of the reforms in the metropolitan area was not possible, however, prior to enactment of the necessary legislation in June 2005. Nevertheless, indirect benefits were already being enjoyed as a result of the improvement in the quality of training of judges, prosecutors and lawyers. Special courses had been designed in cooperation with the Governments of Germany and the United States. Assessments of the impact of the reform process by both domestic and external bodies representing, for example, the Organization of American States, had indicated that there was considerable public satisfaction with the results. As people gained confidence in the judicial system, they were less reticent about filing complaints. That was one reason why the mandate of the National Commission on Political Imprisonment and Torture had been extended.

46. Mr. QUEZADA (Chile), referring to the primacy of the courts on the issue of amnesty, conceded that for many years the courts had reneged on their duty as custodians of human rights. Recently, however, there had been a considerable change in jurisprudence in that regard, at least in the superior courts and the Supreme Court.

47. The Government had taken action to address the phenomenon of unlawful pressure on judges, especially those adjudicating human rights cases. Ministry of the Interior instructions and judicial orders had been issued, where appropriate, on behalf of judges and victims or their families.

48. The definition of torture in the Penal Code corresponded to that in article 1 of the Convention. The Code referred to persons deprived of their liberty without specifying where that might be. Whether the definition covered acts of torture committed in a person's home was open to interpretation in the light of existing case law.

49. In 1991 certain offences pertaining to Carabineros had been removed from military jurisdiction. They included two offences under the Weapons Control Act and one characterized as public abuse of a Carabinero officer. Other offences in which Carabineros were involved, either passively or actively, still fell under military jurisdiction, a situation that needed to be changed.

50. The Government was considering an amendment to the Criminal Code that might address the question of due obedience.

51. Although the Government strictly respected the independence of the judiciary, it did not adopt a passive stance when abuses came to light. The Council for Defence of the State had spoken out in many cases of alleged human rights violations, especially regarding Mr. Pinochet and other members of that regime. The Human Rights Unit at the Ministry of the Interior also monitored legal proceedings with a view to clarifying the situation of victims of oppression under the military regime.

52. Ms. ESQUIVEL (Chile) said that the mandate of the National Commission on Political Imprisonment and Torture was to examine the cases of all persons who had been deprived of their liberty for political reasons and had suffered torture. It could obtain information from individual victims, groups of victims, and intergovernmental and non-governmental human rights and humanitarian organizations. Information on a number of cases had been received just recently from the International Committee of the Red Cross.

53. There were indeed people who were unclear as to what constituted torture but the staff of the Commission had considerable experience in dealing with such cases and did their best to reach out to the victims.

54. With regard to the allegations by the La Morada non-governmental organization regarding women seeking abortions who had been subjected to unacceptable pressure in hospitals, she was not familiar with the situation but agreed that it was extremely serious. She assured the Committee that the authorities would look into the matter and take whatever action was deemed necessary.

55. Mr. LIZAMA (Chile) said that the Government had sought international expert advice before deciding to involve the private sector in addressing problems in the Chilean penitentiary system. Responsibility for all matters pertaining to prison guards and administration, including senior management, remained with the public sector. The private sector had been entrusted with the task of building facilities that met the highest international standards, of maintaining them over the 20-year period of the concession and of providing services such as health care, nutrition, social reintegration, pest control and hygiene. Fines would be imposed if the concessionaire failed to meet the terms of the contract, in which case the State could assume control or transfer the contract to another company.

56. Every formal complaint of sexual abuse filed by a detained person or family member was subject to a preliminary investigation in order to establish the credibility of the allegation; if the preliminary investigation showed the allegation to be credible, a full administrative investigation followed. If the administrative investigation showed that a crime had been committed, all the background to the case was submitted to a criminal court. If necessary, the perpetrator of such an offence could be dismissed on grounds of inappropriate behaviour.

57. Mr. RASMUSSEN (Alternate Country Rapporteur) thanked the delegation for their frank answers to the Committee's many questions. He stressed the importance of responsibility for the Carabineros and the Investigations Police being transferred from the Ministry of Defence to the Ministry of the Interior. He invited Chile to use all available means to amend its regulations on due obedience (para. 50); the Convention was legally binding in Chile, and an order from a superior could not be allowed to constitute an excuse for carrying out torture. He suggested that new recruits to the Carabineros and the Investigations Police should be given a copy of the Convention when they signed their contracts of employment, and told that they had to comply with its provisions.

58. Although the participation of non-governmental organizations and of the Prison Service of the United Kingdom in the training of the Gendarmería was to be welcomed, there had not been similar participation in the training of the three forces under the Ministry of Defence. The delegation had talked about human rights training; he wanted to know specifically whether there was training in matters concerning the Convention and the prohibition of torture. He was pleased that places of detention were subject to inspections, and suggested that the inspection bodies publish annual reports of their findings. However, it was regrettable that military places of detention were not subject to such inspections.

59. He welcomed the delegation's frank description of the conditions in prisons; he appreciated that spending money on improving the living conditions of inmates was not something that won votes. He requested clarification as to whether 16- and 17-year-old children were allowed to be held with adults. Building new prisons was generally not as effective in reducing overcrowding as by introducing alternatives to imprisonment. He speculated that staffing problems would be exacerbated by many staff taking sick leave due to the stressful nature of working in such overcrowded facilities.

60. He welcomed the information provided about the Salazar Campos case; however, he wondered whether it was really normal procedure for the police to take detainees to an emergency medical centre for a medical examination. He asked why the police had gone to the trouble of obtaining a medical certificate that stated explicitly that there were no lesions. The delegation had not reflected on information that the detainee had seen a forensic doctor who had described lesions consistent with electrical torture. However, he wished to emphasize that his main interest was in helping Chile to improve its practices. In that context he urged the State party to consider training doctors in how to detect torture and recommended that police officers against whom such serious allegations had been made should be suspended for the duration of the investigation, not least to prevent them from tampering with the case.

61. Mr. METTIFOGO (Chile) said that most 16 and 17 year olds who had committed offences were not held in the prison system, but in an alternative system of juvenile detention centres. Since 1994, those minors who were in the adult prison system had been held completely

separately from adults. Thus, although 400 minors had been held in adult penitentiary establishments in 2003, they had not been allowed contact with adult prisoners at any time. As of 2003, minors were also kept apart from adults during their transportation to court or between prisons.

62. Mr. CORNEJO (Chile) said, with regard to the Salazar Campos case, that there was nothing unusual in the police having taken a detainee to an emergency medical centre to be checked by a doctor, since the police did not have their own medical facilities. The detainee had also been examined by a doctor of the Gendarmería service in order to check that he had no injuries. No officer had been suspended because no charges had yet been brought as a result of the judicial investigation and the administrative investigation had not substantiated the alleged incident. The forensic report that had been mentioned had not been available to the police, who did not always have access to all of the information that was available to the court; the police had no information that would have justified the suspension or reprimand of any officer.

63. Mr. RASMUSSEN said that it was not the Committee's role to form judgements on specific cases, but only to learn how the system functioned in the State party in order to help the State party to improve on that system as it existed; the delegation's answer was therefore adequate for the Committee's purposes. However, he hoped that the State party would take on board his comments.

64. Mr. MARTABIT (Chile) said that he wished to ensure that any doubts had been cleared up; his country insisted on high standards, which was why Chile had brought such a large delegation to answer the Committee's questions.

65. Ms. ESQUIVEL (Chile) said that members of the medical profession who detected signs of torture had an obligation to report the matter; if they did not do so, they were themselves committing an offence.

66. Mr. YAKOVLEV said that he had been reassured by the delegation's answers. He recognized that the need to detain people who were suspected of being involved in a crime while checks were made was a necessary stage in police work; however, he wished to know whether the prosecutor was able to extend the initial six-hour period indefinitely, and whether a decision to extend the period of deprivation of liberty was taken solely by the prosecutor, or was examined by a court. It was important that there should be an objective basis for such decisions, and that safeguards were in place to ensure the impartiality of the decision to grant an extension. He also wished to know how arrested persons were expected to occupy their time during the six hours of detention, whether they would be informed of their right not to answer questions, to inform next of kin and to see a lawyer. He wished to see such matters governed by the Code of Criminal Procedure, which determined the status of a person deprived of his or her liberty.

67. Mr. PRADO VALLEJO said that it was clear that excessive military jurisdiction was accepted in Chile. International human rights standards had not been incorporated into domestic legislation. As a fellow Latin American, he regretted that there had been no judicial decision in relation to Operation Condor or the "Caravan of Death" case; which would have sent a clear signal about the human rights situation in the country and the region.

68. Mr. MARTABIT (Chile) said that human rights were a fundamental concern of the Chilean Government and of Chilean society, and that that concern for human rights was reflected in the Chilean Constitution. Moreover, his Government understood that a culture of respect for human rights was something that had to be established in people's hearts and minds, as well as in legislation, and was committed to achieving that goal.

69. Mr. QUEZADA (Chile) said that eight incidents across Chile were being investigated in connection with the "Caravan of Death" case. Fourteen former military personnel had been prosecuted, each of whom faced charges regarding a large number of executions and disappearances. With regard to Operation Condor, no case was pending. Such episodes notwithstanding, the Republic of Chile had a history of respect for human rights. The democratic Government had been making a concerted effort to implement the provisions of the Convention. The Constitution that had been inherited in 1989 had been amended so that it stipulated that the rights recognized under the Constitution were all those that were acknowledged in the international treaties that were in force. Although certain lacunae remained, the necessary changes would gradually be incorporated.

70. Mr. MARTABIT (Chile) said that in deciding the composition of the delegation his Government had sought to reflect the main institutions responsible for implementation of the Convention; one reason for that had of course been to facilitate dialogue with the Committee. However, the Government had also been keen to give representatives from the various ministries the chance to experience first hand the Committee's interest in their activities, which it hoped would lead to a greater understanding of the need to implement the Convention. He thanked the members of the Committee and said that his Government looked forward to submitting its next periodic report, which it undertook to do on time.

The meeting rose at 6 p.m.