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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Protection of human rights in Chile

Note by the Secretary-General

1. In accordance with paragraph 6 of its resolution 3219 (XXIX) of 6 November 1974, concerning protection of human rights in Chile, the General Assembly requested the Secretary-General to submit a report to the Assembly at its thirtieth session on the action taken and progress achieved under paragraphs 3 to 5 of that resolution.
2. In paragraph 4 of the resolution, the General Assembly endorsed the recommendation made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 8 (XXVII), that the Commission on Human Rights at its thirty-first session should study the reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment. Resolution 8 (XXVII) had been adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its 711th meeting, held on 21 August 1974, under the item entitled "The question of the human rights of persons subjected to any form of detention or imprisonment".
3. As requested by the Sub-Commission and endorsed by the General Assembly, the Commission on Human Rights considered at its thirty-first session the item entitled "Study of reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment". It had before it the information received by the Secretary-General from a number of specialized agencies, intergovernmental organizations as well as non-governmental organizations in consultative status. These included reports from a number of governmental and non-governmental organizations whose representatives had visited Chile during 1974. The item was considered at the 1318th to 1323rd meetings of the Commission.

4. On 27 February 1975, the Commission on Human Rights adopted without a vote resolution 8 (XXXI) on the item. In the resolution, the Commission referred to the Charter of the United Nations and the Universal Declaration of Human Rights, and recalled the previous action of the Commission as well as that of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the resolutions of the Economic and Social Council, and of the General Assembly as well as of the International Labour Conference and of the General Conference of the United Nations Educational, Scientific and Cultural Organization. Having noted with serious concern the continuing reports of violations of human rights in Chile as well as statements made in the course of its session, the Commission decided that an Ad Hoc Working Group of five of its members appointed in their personal capacity by the Chairman of the Commission and operating under his chairmanship would "inquire into the present situation of human rights in Chile" on the basis of the resolutions referred to above and "of a visit to Chile and of oral and written evidence to be gathered from all relevant sources". The Commission appealed to the Government of Chile to extend its full co-operation to the Ad Hoc Working Group in fulfilling its task, including the granting of all necessary facilities and complete freedom of movement in the country for this purpose. The Group was instructed to report the results of its inquiry to the Commission on Human Rights at its thirty-second session and to submit a progress report on its findings to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under General Assembly resolution 3219 (XXIX). The Ad Hoc Working Group would cease to exist upon the submission of its final report to the Commission on Human Rights. The Commission decided to consider the question of violations of human rights in Chile at its thirty-second session as a matter of high priority.

5. By resolution 8 (XXXI) of the Commission on Human Rights, the Secretary-General was requested to render to the Ad Hoc Working Group all the assistance which it might require in its work. The Commission recommended to the Economic and Social Council that it should make arrangements for the provision of adequate financial resources and staff for the implementation of the resolution.

6. On 4 September 1975, the Chairman-Rapporteur of the Ad Hoc Working Group on the Situation of Human Rights in Chile transmitted to the Secretary-General a progress report the text of which is annexed to the present document.

ANNEX

Progress report of the Ad Hoc Working Group established  
under resolution 8 (XXXI) of the Commission on Human  
Rights to Inquire into the Present Situation of  
Human Rights in Chile

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# CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
Introduction . . . . .	1 - 11	8
<u>Chapter</u>		
I. Establishment, functions and methods of work of the <u>Ad Hoc</u> Working Group . . . . .	12 - 39	10
II. The question of the visit of the <u>Ad Hoc</u> Working Group to Chile . . . . .	40 - 62	21
III. Chilean constitutional and legislative provisions relevant to the inquiry conducted by the Group . . . . .	63 - 102	29
IV. Interim findings of the <u>Ad Hoc</u> Working Group on the present situation of human rights in Chile . . . . .	103 - 238	41
A. The impact on human rights of the state of siege and of the extension of the jurisdiction of the special military courts . . . . .	103 - 123	41
B. Arrest and detention on grounds of security of the State . . . . .	124 - 155	47
C. The question of freedom of movement: the right to leave the country and to return to it . . . . .	156 - 183	56
D. The question of torture, cruel and inhuman treatment including threats to human life and security of the person, and the alleged existence of "concentration camps" . . . . .	184 - 195	62
E. The situation of women, children and youth . . . . .	196 - 211	66
F. The general situation as regards the respect of human rights in relation to civil and political rights and economic, social and cultural rights . . . . .	212 - 238	69
V. Adoption of the report . . . . .	239	78

CONTENTS (continued)

	<u>Annexes</u>	<u>Page</u>
I.	Note concerning the terms of reference of the <u>Ad Hoc</u> Working Group established under resolution 8 (XXXI) of the Commission on Human Rights to inquire into the present situation of human rights in Chile . . . . .	79
II.	Rules of procedure of the <u>Ad Hoc</u> Working Group to inquire into the present situation of human rights in Chile, as adopted by the Group at its 5th meeting, on 22 May 1975 . . . . .	94
III.	Working paper presented at the 3rd meeting of the Working Group, on 21 May 1975, by Mr. Sergio Diez, representative of the Government of Chile. . . . .	101
IV.	Letter dated 2 June 1975 from the Ambassador Extraordinary of Chile addressed to the Chairman of the <u>Ad Hoc</u> Working Group, concerning the rules of procedure adopted by the Group. . . . .	105
V.	Statement made by the Chairman at a press briefing given on 27 June 1975 at United Nations Headquarters, New York . .	107
VI.	Statement issued on 10 July 1975 by the <u>Ad Hoc</u> Working Group to inquire into the present situation of human rights in Chile . . . . .	108
VII.	Statement made on behalf of the Working Group at a press conference in Caracas on 21 July 1975. . . . .	110
VIII.	Letter dated 11 April 1975 from the Permanent Representative of Chile to the United Nations Office and other International Organizations at Geneva, addressed to the Director of the Division of Human Rights . . . . .	112
IX.	Note verbale dated 7 May 1975 from the Secretary-General to the Permanent Representative of Chile to the United Nations . . . . .	113
X.	Note verbale dated 15 May 1975 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General . . . . .	114
XI.	Two letters dated 17 June 1975 from the Permanent Representative of Chile to the United Nations Office and other International Organizations at Geneva, addressed to the Director of the Division of Human Rights . . . . .	115

/...

CONTENTS (continued)

	<u>Annexes (continued)</u>	<u>Page</u>
XII.	Letter dated 26 June 1975 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General . . . . .	116
XIII.	Letter dated 30 June 1975 from the Deputy Executive Assistant to the Secretary-General addressed to the Permanent Representative of Chile to the United Nations . . .	117
XIV.	Letter dated 9 July 1975 from Osvaldo Salas T., Special Delegate of the Government of Chile addressed to the Chairman of the Working Group . . . . .	118
XV.	Act Constituting the Government Junta (Decree-law No. 1). . .	119
XVI.	Decree-law No. 521: Creation of the Directorate of National Intelligence (DINA). . . . .	121
XVII.	Lists of missing persons. . . . .	123

LETTER OF TRANSMITTAL

4 September 1975

Sir,

In its resolution 8 (XXXI), adopted on 27 February 1975, the Commission on Human Rights decided to establish an Ad Hoc Working Group of five members of the Commission, to be appointed in their personal capacity by the Chairman of the Commission and to operate under his chairmanship. The mandate of the Group was to inquire into the present situation of human rights in Chile on the basis of certain resolutions mentioned in resolution 8 (XXXI) and a visit to Chile and of oral and written evidence to be gathered from all relevant sources. The Ad Hoc Working Group was required to report the results of its inquiries to the Commission on Human Rights at its thirty-second session and to submit a progress report on its findings to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under General Assembly resolution 3219 (XXIX).

I have the honour to submit to you herewith the text of the progress report as adopted unanimously by the Ad Hoc Working Group on 30 August 1975 in Geneva.

Accept, Sir, the assurances of my highest consideration.

(Signed) G. A. ALLANA  
Chairman  
Ad Hoc Working Group on Chile

H.E. Mr. Kurt Waldheim  
Secretary-General  
United Nations  
New York  
N.Y. 10017  
USA

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## INTRODUCTION

1. By a resolution which it adopted on 27 February 1975, the Commission on Human Rights entrusted an Ad Hoc Working Group of five of its members, acting in their personal capacity, with the task of inquiring into the present situation of human rights in Chile, on the basis of various resolutions adopted by United Nations organs, including the General Assembly, of a visit to Chile and of oral and written evidence which the Group would gather from all relevant sources. The Ad Hoc Working Group was instructed to submit a progress report on its findings to the Secretary-General, for inclusion in his report to the General Assembly at its thirtieth session, under General Assembly resolution 3219 (XXIX). A final report is to be submitted to the Commission on Human Rights at its next session, which is to be held in Geneva in February 1976.
2. In compliance with the Commission's resolution the Chairman of the Commission, Mr. G. A. Allana from Pakistan, appointed the four other members of the Ad Hoc Working Group. They are: H.E. Mr. Leopoldo Benites from Ecuador, who was the President of the General Assembly at its twenty-ninth session; Mr. A. Dieye, who is a member of the Supreme Court of Senegal; Professor F. Ermacora, former chairman of the Commission on Human Rights, who is a member of the Austrian Parliament and a member of the European Commission on Human Rights; and Mrs. M. J. T. Kamara, a social worker from Sierra Leone.
3. The Government of Chile through its official representatives accepted formally the appeal contained in the resolution of the Commission to extend its full co-operation to the Working Group, including complete freedom of movement in Chile. This commitment, which was repeatedly expressed until a few days before the date agreed for the visit of the Group in Chile, was unilaterally revoked six days before the scheduled arrival of the Group in Santiago. The reasons advanced represented a complete reversal of commitments previously made. In these circumstances, in the light of the provisions governing its mandate as confirmed by legal analysis, the Group could only take one course, that is, to prepare the progress report intended for the General Assembly on the basis of the information which the Group had been empowered to gather.
4. Extensive written material on the situation of human rights in Chile was made available to the Group; many persons offered to furnish it with relevant data by appearing before it. Most of them were Chileans; some had been politically active under previous political régimes; most of them, however, had not; many had left Chile in recent weeks or months. Some had flown directly from Santiago to Geneva in the latter part of August to make statements before the Working Group. The above-mentioned persons represented a comprehensive spectrum of the national life of Chile. In addition, the Group benefited from information provided by non-Chileans who, as representatives of important international private organizations or on their own, had had the occasion of visiting Chile and inquiring into the conditions of respect for human rights in that country. The Group also had documents submitted to the thirty-first session of the Commission on Human Rights by specialized agencies and regional organizations.

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5. Most of the persons who appeared before the Group have received the assurance from the Group that their names would not be revealed. They were apprehensive of the consequences of appearing before the Group, as their relatives were still in Chile and might be subjected to reprisals. Under these circumstances the Working Group has decided not to reveal, at any stage, the names of such persons.

6. In order to understand the legal framework within which human rights can be exercised at present in Chile, the Group examined the relevant constitutional and criminal law procedures in force in that country. It had the benefit of legal studies which had been made previously, and of legal advice. The progress report contains various data in that regard which may prove helpful to the consideration of the report by the General Assembly.

7. The standards applied by the Group to assess the situation of human rights in Chile were those contained in the international instruments on human rights adopted by the United Nations and adhered to by Chile. The Group considered that it was not its role to evaluate the present constitutional structures of the Chilean State or the historical events which led to the establishment of the present régime except as they affected the situation of human rights in that country.

8. The Group centered its attention on those matters with respect to which the General Assembly and other United Nations organs have expressed a special concern. Having analysed the effects on human rights of the state of siege under which Chile has lived for nearly two years, the Group dealt with the question of arbitrary arrests and detention, the conditions under which Chileans and foreigners may leave that country or return to it, and the crucial matter of cruel and degrading treatment and punishment, including that of systematic acts of torture. The situation of women and children is described in a separate section and the general situation as regards certain human rights not dealt with elsewhere is treated in another section. The Group hopes to be able to study many of these questions in greater depth in its final report to the Commission on Human Rights.

9. Undoubtedly, if the Group had visited Chile for a period of three weeks as planned, it could have seen many more persons, visited at least some of the places mentioned in statements and documents, and verified the exactitude of the allegations made against the Chilean authorities in United Nations forums. It could have consulted with the Chilean authorities, whether in the political, judicial or social fields. These opportunities were not afforded to it.

10. Consequently, imperfections, if any, in the progress report are due not to the ill will of the Group and of its members but to the unforeseen restrictions on the Group's modus operandi, which were not of its own doing. The Ad Hoc Working Group remains ready to render such services as it may to the United Nations and the international community in the realization of their objectives of human solidarity as regards Chile.

11. The Ad Hoc Working Group wishes to express its warm appreciation to Mr. Marc Schreiber, Director of the Division of Human Rights, who was designated by the Secretary-General as Principal Secretary of the Group, Mr. Henri Mazaud, who acted as Secretary, the members of the Division of Human Rights and other members of the Secretariat who assisted it untiringly and in a spirit of dedication in the performance of its functions.

I. ESTABLISHMENT, FUNCTIONS AND METHODS OF WORK OF THE  
AD HOC WORKING GROUP

Establishment of the Group

12. The establishment of an Ad Hoc Working Group to inquire "into the present situation of human rights in Chile" was decided by the Commission on Human Rights in its resolution 8 (XXXI), which was adopted by a consensus of all members of the Commission. The Ad Hoc Working Group consists of five members of the Commission appointed by the Chairman of the Commission and acting in their personal capacity under his chairmanship. The inquiry entrusted to the Group is to take place on the basis of various decisions of United Nations and specialized agencies organs mentioned in the preamble of the resolution, 1/ a visit to Chile and oral and written evidence to be gathered from all relevant sources. The Commission appealed to the Government of Chile to extend its full co-operation to the Working Group in the fulfilment of its task and, in particular, to grant to the Group all necessary facilities and complete freedom of movement in the country for this purpose. The Secretary-General was requested to render to the Ad Hoc Working Group all assistance which it might require in its work, and a recommendation was addressed to the Economic and Social Council to provide adequate financial and staff resources for the implementation of the resolution.

13. The Ad Hoc Working Group was invited to report the results of its inquiries to the Commission on Human Rights at its thirty-second session, which is to be held in February-March 1976, and to submit a progress report on its findings to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under General Assembly resolution 3219 (XXIX). The question of the violation of human rights in Chile is to be considered as a matter of high priority at the Commission's thirty-second session and thereafter the Group will cease to function.

14. The adoption of the resolution was preceded by an extensive exchange of views during six meetings of the Commission 2/ in which most of the members of the

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1/ Telegram dated 1 March 1974 sent by the Commission on Human Rights to the Chilean authorities (see Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 5 (E/5464), chap. XIX, sect. B, decision 1); the appeal made to the Chilean authorities by the Economic and Social Council in its resolution 1873 (LVI) of 17 May 1974; resolution 8 (XXVII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1160, chap. XIX); the appeals made to the Chilean authorities by the International Labour Conference at its fifty-ninth session (resolution of 24 June 1974 (Official Bulletin, vol. LVII, No. 1, 1974, p. 40)) and by the General Conference of UNESCO at its eighteenth session (resolution 11.31 adopted at the 47th plenary meeting on 23 November 1974); and General Assembly resolution 3219 (XXIX). These decisions are reproduced in the appendix to annex I of the present report.

2/ See summary records of the thirty-first session of the Commission on Human Rights, 1318th to 1323rd meetings (E/CN.4/SR.1318-1323).

Commission took part, together with several observers of Member States not represented on the Commission. The representative of the International Labour Organisation and a number of representatives of non-governmental organizations in consultative status with the Economic and Social Council made statements.

15. The item "Study of reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment" had been placed on the agenda of the Commission on the recommendation of its Sub-Commission on Prevention of Discrimination and Protection of Minorities contained in resolution 8 (XXVII) of the Sub-Commission. 3/ That recommendation was specifically endorsed by the General Assembly in its resolution 3219 (XXIX) of 6 November 1974. In its resolution the Sub-Commission inter alia requested "specialized agencies, other intergovernmental organizations, as well as non-governmental organizations in consultative status concerned to submit to the Secretary-General for reference to the Commission on Human Rights recent and reliable information on torture and other cruel, inhuman or degrading treatment or punishment in Chile". A considerable number of these organizations responded to the Sub-Commission's request by sending substantive reports based on visits which their representatives had made to Chile or on reports received by these organizations from their correspondents in Chile. The Commission had also before it a letter from the Permanent Representative of Chile to the United Nations and a letter and a memorandum from the Permanent Representative of Chile to the United Nations Office at Geneva. 4/

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3/ E/CN.4/1160, chap. XIX.

4/ The following documentation was before the Commission:

- (a) A note by the Secretary-General giving the background to the item before the Commission (E/CN.4/1166);
- (b) Information submitted in accordance with resolution 8 (XXVII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities as follows:
  - (i) Information submitted by the International Labour Office and the United Nations Educational, Scientific and Cultural Organization (E/CN.4/1166/Add.1 and 2);
  - (ii) Information submitted by the Organization of American States (E/CN.4/1166/Add.3 and 14);
  - (iii) Information submitted by the following non-governmental organizations: International Commission of Jurists (E/CN.4/1166/Add.4 and Add.6), Inter-Parliamentary Union (E/CN.4/1166/Add.4), World Confederation of Organizations of the Teaching Profession (E/CN.4/1166/Add.4), Amnesty International (E/CN.4/1166/Add.5), International Confederation of Free Trade Unions (E/CN.4/1166/Add.5), International Committee of the Red Cross (E/CN.4/1166/Add.6), International Union of Students (E/CN.4/1166/Add.7), World Federation of Trade Unions (E/CN.4/1166/Add.8 and Add.10), Women's International Democratic Federation (E/CN.4/1166/Add.9), World Confederation of Organizations of the Teaching

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16. At the 1323rd meeting of the Commission, the leader of the observer delegation of Chile made a statement in which he discussed in detail the allegations which had been made against the authorities in his country.

17. The consensus in the Commission on the text of resolution 8 (XXXI) was reached after intensive informal consultations in which representatives from the various regional groups as well as the Chairman of the Commission took part. Draft resolutions had been submitted by the Netherlands, Nicaragua and the United Kingdom, 5/ by the Union of Soviet Socialist Republics 6/ and by Senegal. 7/ In introducing the compromise draft the representative of Senegal paid tribute to the role played by other delegations, in particular those of the Latin American countries, in striving for an appropriate solution which was acceptable to all the members of the Commission. He stated that in that process the Afro-Asian countries had acted as an intermediary. An attempt had been made as far as possible to exclude any political considerations and to concentrate on the human rights aspects of the situation. He said it was made clear that the Commission was in no way prejudging the situation in Chile but that it merely wished to investigate and then take a final decision. The proposed Ad Hoc Working Group was to conduct its inquiries with the full co-operation of the Government of Chile, to perform a particular task over a specified period of time and to submit a progress report to the General Assembly at its thirtieth session and a final report to the Commission at its thirty-second session. If the proposed investigation was to be effective, he said, it was most important that the members of the Working Group should be highly qualified persons of international repute who were properly equipped to study the problems of Chile. In view of the specific character of the mission entrusted to the Group, which was by its very nature temporary, it did not seem that there was any need to abide strictly by the principle of geographical distribution in the appointment of its members. He said he was convinced that the adoption of the draft resolution would serve to bring out the truth concerning events in Chile and would promote the cause of human rights in all countries which were the subject of legitimate doubt and concern. 8/

4/ (continued)

Profession (E/CN.4/1166/Add.11), World Confederation of Labour (E/CN.4/1166/Add.13), International Youth and Student Movement for the United Nations (E/CN.4/1166/Add.15);

(c) A letter dated 21 August 1974 from the Chargé d'affaires ad interim of the Permanent Mission of Chile to the United Nations (E/CN.4/1158); a letter from the Permanent Representative of Chile to the United Nations Office at Geneva, with annexes (E/CN.4/1174); a memorandum from the Permanent Representative of Chile to the United Nations Office at Geneva (E/CN.4/1174/Add.1);

(d) The report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its twenty-seventh session (E/CN.4/1160).

5/ E/CN.4/L.1301, E/CN.4/L.1301/Rev.1.

6/ E/CN.4/L.1302.

7/ E/CN.4/L.1303.

8/ E/CN.4/SR.1323.

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18. Immediately after the Commission had reached its decision the observer for Chile thanked all the delegations that had co-operated in working out a generally acceptable solution. He stated that the draft resolution "was to be welcomed as an attempt to seek the truth without prejudice". He said that the Chilean Government, "which asked only for an opportunity to restore its honour - so often trampled under foot by United Nations bodies - would lend its fullest co-operation in that endeavour". 9/

19. At the 1335th meeting of the Commission, on 7 March 1975, the Chairman, in accordance with rule 21 of the rules of procedure of the functional commissions of the Economic and Social Council, announced the following composition of the Ad Hoc Working Group: Mr. Ghulam Ali Allana (Pakistan), Chairman; Mr. Leopoldo Benites (Ecuador); Mr. Abdoulaye Dieye (Senegal); Mr. Felix Ermacora (Austria); and Mrs. M. J. T. Kamara (Sierra Leone). The Chairman stated that "the choice of members had given rise to many difficulties, as might be expected in the case of appointments of such a delicate nature". 10/ He understood that it was the wish of the Commission that the reference to "five members of the Commission" was meant to include both full members of the Commission and alternate representatives who had taken part in the Commission's work on the item. He also understood that the Commission would empower him to replace any member of the Group who might for one reason or another be unable to serve. 11/

20. At its 1948th plenary meeting, on 6 May 1975, the Economic and Social Council, by its decision 80 (LVIII), approved the decision of the Commission on Human Rights in its resolution 8 (XXXI) to set up an Ad Hoc Working Group to inquire into the present situation of human rights in Chile within the terms of that resolution. At the 768th meeting of the Social Committee of the Economic and Social Council, on 28 April 1975, the observer for Chile confirmed the position of his Government concerning the establishment of the Working Group and stated that it was willing to allow the Group full freedom of action within Chile. 12/

#### Functions and methods of work of the Ad Hoc Working Group

21. Soon after the approval by the Economic and Social Council of resolution 8 (XXXI) of the Commission on Human Rights, the Ad Hoc Working Group met in Geneva from 20 to 24 May 1975 to organize and initiate its work. It examined

9/ Ibid.

10/ E/CN.4/SR.1335.

11/ E/5635, para. 111. The representative of the Soviet Union, in a statement made at the 1335th meeting of the Commission, declared inter alia that in his delegation's view the composition of the Working Group was unsatisfactory and referred to the "established principle" of the participation of States from each of the five regional groups in the main and subordinate bodies of all United Nations organs.

12/ See para. 42 below.

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with great attention its terms of reference in the light of the provisions of that resolution and of the resolutions mentioned in the second paragraph of its preamble which were to form the basis of its inquiry. It recorded in a document its understanding in that regard (annex I).

22. As regards the expression "the present situation of human rights in Chile" used in paragraph 1 of resolution 8 (XXXI), the Group agreed on an interpretation under which it would investigate primarily the current situation of human rights in Chile while giving to that concept a connotation which would include the consideration of correlated antecedents. Thus, the investigation would bear essentially on the period of time during which concern had been expressed in United Nations organs regarding the problem. As regards the substantive scope of the inquiry, the analysis by the Group of the resolutions pointed to a continuity as to the nature of the preoccupations of the United Nations organs and of specialized agencies which had considered the situation of human rights in Chile as well as to the nature of the main objective of the United Nations, i.e. to assist in the "restoration and safeguard" of basic human rights and fundamental freedoms in that country. All data relevant to the achievement of this goal or to prospects of achievement of the goal in the future would be of significance for the work of the Ad Hoc Working Group. It was agreed that the subjects of investigation by the Group would include the following and that in view of the limited time at the disposal of the Group certain priorities as to areas to be covered by the investigation would have to be borne in mind:

(a) The questions specifically mentioned by the General Assembly in resolution 3219 (XXIX) and by other United Nations organs, i.e.

- (i) The question of the release of all persons who have been detained without charge;
- (ii) The question of the granting of safe conduct to those - Chileans and foreigners - who desire it; the question of forcible expulsions from Chile;
- (iii) The question of threats to human life and security of person, in respect of those persons who have occupied important positions and of others;
- (iv) The question of torture and cruel, inhuman and degrading treatment or punishment;
- (v) The question of the alleged existence of "concentration camps".

(b) The question of the state of siege and the existence and jurisdiction of special courts established under the state of siege;

(c) The general situation as regards the respect of human rights in relation to the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments concluded under the auspices of the United Nations which may be relevant;

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(d) Other matters referred to specifically in the resolutions of ILO and UNESCO to the extent warranted in the light of investigations and other steps taken by those specialized agencies.

23. Early in August 1975 the Group was informed of the resolution adopted on "The situation of women in Chile" by the World Conference of the International Women's Year, 13/ in which the Conference expressed the wish "that the Ad Hoc Working Group of the United Nations Commission on Human Rights in its investigation and report on the situation in Chile pay special attention to the situation of women and children". It had been the intention of the Group as from its preliminary discussions to consider these matters, and an appropriate section thereon is included in this progress report. A more detailed analysis will be contained in the final report of the Group to the Commission on Human Rights.

24. The Group also agreed on the broad lines of its methods of investigation and of the nature of its reports. It specified that, in accordance with Commission resolution 8 (XXXI), in addition to the visit to Chile it could base its inquiry also on oral and written evidence to be gathered from all relevant sources. Hearing of testimony could presumably take place during the Group's visit to Chile, as well as outside Chile, at suitable times and subject to such procedural arrangements as the Group might determine and approve in regard to the selection of witnesses, and within the limits of resources which might be available for this purpose.

#### Rules of procedure of the Ad Hoc Working Group

25. The Group examined with care the question of its rules of procedure. It took as a basis for this purpose the "Model rules of procedure for United Nations bodies dealing with violations of human rights", which had been prepared by a working group of the Commission on Human Rights, 14/ noted by the Economic and Social Council in resolution 1870 (LVI) and brought to the attention of all organs and bodies within the United Nations system dealing with the question of human rights and fundamental freedoms. 15/

26. The rules, which were adopted by the Group at its 5th meeting, on 22 May 1975 (annex II) provide, inter alia, that each member of the Group is required, upon assuming his duties, to make a solemn declaration that he will perform these duties and exercise his powers as a member of the Group "honourably, faithfully,

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13/ Resolution 34 adopted on 2 July 1975.

14/ E/CN.4/1086 and E/CN.4/1134.

15/ The "Model rules of procedure" have been utilized previously by other United Nations bodies, such as the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories established by General Assembly resolution 2443 (XXIII) and the Ad Hoc Working Group of Experts on southern Africa set up under resolution 2 (XXIII) of the Commission on Human Rights.

impartially and conscientiously". This declaration was made by each member of the Working Group at the 1st meeting of the Group, held on 20 May 1975. The rules also provide that the Chairman shall present the report of the Group to the competent organs of the United Nations as may be appropriate. All the meetings of the Group are to be held in camera, unless the Group itself decides otherwise; communiqués may however be issued through the Secretariat. As regards testimony, provision is made for a solemn declaration to be made by persons appearing before the Group for the purpose of giving testimony to assure that they will speak "the truth, the whole truth and nothing but the truth" and for those appearing in an expert capacity to declare that their statement "will be in accordance with their sincere belief". The Ad Hoc Working Group is to decide upon the relevance and the use which is to be made of the written material and other documentary evidence submitted to it. 16/ Rules 19 of the rules of procedure refers to the right of

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16/ Rule 16:

"(a) The Ad Hoc Working Group shall decide upon the relevance and upon the use which may be made of the written material and other documentary evidence submitted to it within its terms of reference, in particular of:

- (i) reports of Governments or public or private organizations;
- (ii) legislative and administrative provisions;
- (iii) writings and articles published in the press or elsewhere;
- (iv) evidence submitted in the form of sound-recordings, films, photographs, drawings or other objects;
- (v) anonymous communications, if, in the opinion of the Working Group, the anonymity is justified for personal security reasons.

(b) Written evidence may, at the request of the person submitting it, be presented in such a manner as not to disclose his identity and be made available only to the members of the Ad Hoc Working Group and the Secretariat."

Some criticism from Chilean sources appears to have been directed at the Group because of the inclusion of the provision of rule 16 (a) (v). This provision concerns only written communications and it leaves to the Working Group the decision as to how it would deal with such communications in given circumstances. It may be noted in this connexion that written communications which do not expressly disclose the identity of the author are not necessarily to be treated as anonymous; their content may give adequate indication as to the source. As regards the presentation of its reports the Group has undoubtedly the power to approach such communications with due regard being given to the security of the communicant. Each such communication would therefore have to be examined on its own merit by the Group in exercising its discretion whether and in what conditions it could and would be examined. In fact no such anonymous written communications were received, and therefore the question of the application of the provision of the rule did not arise.

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the Government of Chile to present any observations or comments on the reports of the Group to the organ to which the report is submitted. Therefore, it envisages that the Group will take such steps as may be possible or appropriate under the resolution to enable the Government of Chile to present such observations or comments.

27. At the 3rd meeting of the Working Group, held on 21 May 1975, prior to the final adoption of the rules of procedure by the Group, Ambassador Sergio Diez, the representative of the Government of Chile, 17/ made a statement to the Group mainly directed at the procedures which would be followed by the Group in its inquiry. The statement was then submitted as a working paper and distributed to the members of the Group (annex III). It was stated to be designed solely as a basis for communication between the Working Group and the Chilean authorities. The Working Group took the position that, while it would be open at all times to consider the views and suggestions of the Government of Chile to facilitate the carrying out of its mandate, including those as to the procedures which it would follow in Chile in gathering information, and while it would always be ready at appropriate times and places to receive and examine written and oral information presented by that Government, it would insist nevertheless on remaining master of its own procedures within the framework of the resolution which had established it and in line with United Nations and other international practice governing investigations conducted by international bodies.

28. In particular, the Group could not agree with the views expressed by the representative of the Government of Chile as regards the handling of communications or individual complaints and the applicability of resolution 1503 (XLVIII) of the Economic and Social Council and resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as the mandate of the Group was derived not from those resolutions but from special decisions of competent United Nations organs. The Commission on Human Rights at its thirty-first session expressly took no action on communications received under resolution 1503 (XLVIII), although reports on Chile had been submitted to it. Similarly, the Group could not agree with some of the limitations suggested as regards methods of investigation, the applicability of Chilean legal procedures to the inquiries conducted by the Group and the publicity to be given to the Group's reports under the relevant resolutions. It was the intention of the Group to discuss these matters with representatives of the Chilean Government in the course of the visit of the Group to Chile, if the Government so desired.

29. The Group decided to communicate the text of the rules of procedure it had adopted to the representative of the Government of Chile. In a letter dated 2 June 1975, addressed to the Chairman, the Ambassador Extraordinary of Chile formulated a few specific remarks which in his opinion constituted only interpretations of the rules of procedure of the Group, without prejudice to the comments addressed previously on behalf of the Government to the Chairman and the Working Group (annex IV).

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17/ By a telegram dated 13 May 1975 from the Minister of Foreign Affairs of Chile, the Director of the Division of Human Rights was informed that Mr. Sergio Diez had been appointed as Ambassador Extraordinary and Plenipotentiary in all matters relating to the visit of the Working Group to Chile.

Activities of the Ad Hoc Working Group

30. In addition to considering its terms of reference, adopting its rules of procedure and considering its programme of work, in the light of consultations with representatives of the Government of Chile and other information made available to it, the Group agreed to give effect to the requests of some persons who had expressed the desire to appear before it, in order to furnish it with information relevant to its terms of reference. Eight such persons appeared before the Working Group in Geneva during meetings held from 20 to 24 May 1975.

31. The Ad Hoc Working Group received a considerable number of other such requests. In the light of the provisions of paragraph 1 of Commission resolution 8 (XXXI), it considered that it was incumbent on it, bearing in mind the financial resources placed at its disposal and the time available, to receive the information offered when that information appeared to be relevant to its mandate and originated from sources which could be considered as reliable. The Group agreed that on his way to Chile, the Chairman would stop for short periods of time in Paris and New York and would receive further information relevant to the Group's mandate. Thus, during his stay in Paris from 18 to 21 June 1975 the Chairman heard 29 persons, and during his stay in New York from 23 June to 3 July 1975, 23 persons, whose statements were duly recorded.

32. While at United Nations Headquarters the Chairman had consultations with the Secretary-General and with the Under-Secretary-General for Political and General Assembly Affairs. On 27 June 1975 the Chairman made a statement at a press briefing given at United Nations Headquarters and answered questions (annex V).

33. As previously agreed, the Working Group assembled on 7 July in Lima, Peru; from there all members of the Group, accompanied by members of the Secretariat, were to leave for Santiago, Chile, on 10 July 1975. The purpose of the stay in Lima was also to enable the Group to hear reports from the Chairman on his activities since the organizational meetings held in May in Geneva and to consider arrangements for the Group's scheduled visit to Chile. While in Lima, the Working Group was confronted with the sudden and unexpected withdrawal by the Government of Chile of its acceptance of the visit of the Group to that country from 10 July 1975. <sup>18/</sup> The Working Group held private informal and formal meetings to consider the implications of the decision of the Government of Chile and to adopt a further course of action compatible with resolution 8 (XXXI). In a statement issued on 10 July 1975, the Group declared inter alia that, notwithstanding the decision of the Government of Chile, it considered that it was "under obligation to perform as completely as possible the tasks entrusted to it under the resolutions which established it, and to report to the General Assembly, through the Secretary-General, and to the Commission on Human Rights, particularly on the basis of oral and written evidence to be gathered from all relevant sources" (annex VI).

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<sup>18/</sup> In view of the importance to be attached to this change of attitude, the question of the visit of the Group to Chile will be examined in chapter II of this report.

From 16 to 22 July 1975 the Working Group held a series of meetings in Caracas, Venezuela, during which it heard 23 persons who volunteered to provide it with relevant information.

34. In a statement made on behalf of the Working Group at a press conference held on 21 July 1975 in Caracas (annex VII), the Group expressed its determination to continue with its task with complete objectivity and impartiality and stated that it was confident that the world community would judge its reports on their merits and take such measures as it might deem necessary. The Working Group also stated that it would be prepared to receive information, oral or written, relevant to its mandate which the Government of Chile might wish to place before it, provided that this was done without putting any obstacles in the way of the work of the Group. A communication to this effect was sent to the Government of Chile through the Permanent Representative of Chile to the United Nations Office at Geneva, but no reply has yet been received by the Group.

35. The Group itself, during its first session in Geneva (20 to 24 May 1975) and during its meetings in Caracas (16 to 22 July 1975), and its Chairman, at hearings held, as authorized by the Group, in Paris (18 to 20 June 1975) and New York (23 June to 1 July 1975), heard 83 persons. None of these persons were specially invited by the Group to present information. All were heard at their own request. Most of them were Chileans but a number of them were non-Chileans who had special knowledge of the situation of human rights in Chile due to the fact that they had visited that country in the recent past. Among the Chileans were former political leaders of Chile, some of whom had belonged to political parties represented in the previous Government and held the highest positions of responsibility. Others were members and office holders of parties which were in the opposition to that Government. There were religious leaders, medical practitioners, civil servants at various levels of responsibility, officers in the armed forces, university professors, other members of the teaching profession, students, attorneys and other lawyers, economists, artists, trade unionists and social workers. Most of them had left Chile in recent months and some only a few weeks or, in certain cases, a few days before they were heard by the Group. Among the non-Chileans were citizens of various countries, lawyers and non-lawyers, as well as a few representatives of non-governmental organizations particularly concerned by developments in Chile as regards the respect of human rights in that country. The Group wishes to express its appreciation to those who volunteered information and thus helped it in its task. Many of them said that they were appearing before the Group at considerable risk, and that they were seriously apprehensive about the safety and liberty of their family members who were in Chile. The Group therefore decided not to divulge the names of Chilean witnesses either in this report or elsewhere.

36. During the week which preceded the Ad Hoc Working Group's second session in Geneva, the Chairman of the Group received requests by telegram from several organizations in Chile to send representatives who would present information to the Group. These offers of testimony came from the President of the Bar Association of Chile (Colegio de Abogados), the Vice-President of the Chilean Lutheran Churches of the Lutheran Communities, the President of the Evangelical Council of Chile, the Supervisor of the Iglesia de Dios, and the Confederation of Truck Drivers. The

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Group agreed to receive that information, as well as information from other persons who had come specially from Chile, between 18 and 25 August. Thirty-seven persons appeared before it, including a former President of the Supreme Court of Chile, a professor of law, members of the bar, trade unionists, newspapermen, representatives of the Rotary and Lions Clubs of Chile, representatives of certain protestant churches, a catholic priest, a housewife, and representatives of student organizations. These statements and the replies given by these persons to the questions addressed to them by members of the Group were given due consideration in the preparation of this report. It may be significant to note that most of the persons who appeared before the Working Group said that they would have welcomed the visit of the Group to Chile. The Group found that the persons coming from Chile were in a certain way organized; one person declared that one day before his journey to Geneva he took the opportunity to visit Tres Alamos detention camp, with the agreement of the carabineros, in order to give the Group his views about the conditions in that camp.

37. The Working Group also received written communications and other material relevant to its inquiry from persons appearing before it, as well as from other persons and organizations. In addition to communications received from the Government of Chile, communications were received from the Governments of Bulgaria and the Netherlands.

38. At a meeting held on 19 August 1975 the Group began the examination of its progress report for submission through the Secretary-General to the General Assembly, as provided in Commission resolution 8 (XXXI). The Group decided to recommend to the Assembly that its Chairman-Rapporteur should be invited to be present during the consideration of the progress report in the Main Committee which would be entrusted with the task of examining the appropriate item, and that he should be available to furnish to that Committee information as to the contents of the report.

39. During its session in Geneva, the Ad Hoc Working Group examined in general terms the nature of the report which, under resolution 8 (XXXI), it was to submit to the Commission on Human Rights at its thirty-second session. It agreed that in the preparation of this final report due consideration would have to be given to the report which the Secretary-General was to submit to the General Assembly under resolution 3219 (XXIX). In the light of the experience of its past work, and the importance which may exist for it to gather further oral and written information and examine certain matters in greater depth, the Ad Hoc Working Group considers that a third week (12 to 18 January) should be added to the two weeks so far authorized for this purpose and requests the Economic and Social Council and the General Assembly to give it the necessary authorization and resources for this purpose.

II. THE QUESTION OF THE VISIT OF THE AD HOC  
WORKING GROUP TO CHILE

40. Reference was made earlier 1/ to the statement made by the observer for Chile upon the adoption by consensus on 27 February 1975 of resolution 8 (XXXI) by the Commission on Human Rights, in which the observer welcomed the resolution on behalf of his Government and stated "that his Government would lend its fullest co-operation in that endeavour". 2/

41. After the adoption of the resolution, consultations took place with the Permanent Mission of Chile to the United Nations Office and other International Organizations at Geneva as to the time at which the visit to Chile envisaged in the resolution would take place, bearing in mind the fact that confirmation of the action of the Commission on Human Rights by the Economic and Social Council was required at the fifty-eighth session of the Council. A visit to Chile in the course of the month of June 1975 was proposed. By a letter dated 11 April 1975 the Permanent Representative of Chile in Geneva informed the Director of the Division of Human Rights that the Government of Chile suggested that the visit should begin in the first week of July in view of the very heavy programme of activities of the Chilean authorities during the month of June and their wish to extend to the Ad Hoc Working Group the fullest facilities for the fulfilment of its task (annex VIII).

42. At the time of the consideration of resolution 8 (XXXI) of the Commission on Human Rights in the Social Committee of the Economic and Social Council, the Permanent Representative of Chile to the United Nations, acting as the observer for Chile, stated that "the Government of Chile agreed to the establishment of a Working Group to visit Chile under the terms of resolution 8 (XXXI) of the Commission on Human Rights, which had been adopted unanimously". He added that the Government of Chile

"had been and continued to be willing to allow the Working Group full freedom of action within Chile and to grant all facilities that the Group might deem necessary for the complete and timely fulfilment of its task. The Government of Chile had reached that decision in full knowledge of the rights emanating from its sovereignty, rights which could also be invoked in accepting that type of mission, particularly in the field of human rights. It was to be hoped that the investigations of the Working Group would bring out the truth to which the Chilean people were entitled, for the sake not only of the prestige of their leaders but also, basically, of their democratic and legal traditions." 3/

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1/ See para. 18 above.

2/ E/CN.4/SR.1323.

3/ E/AC.7/SR.768.

43. Upon the final approval by the Economic and Social Council at its 1948th meeting, held on 6 May 1975, of the decision of the Commission on Human Rights to set up the Ad Hoc Working Group within the terms of resolution 8 (XXXI), the Secretary-General, by a note verbale dated 7 May 1975, formally transmitted the text of the resolution as well as the names of the members of the Ad Hoc Working Group to the Permanent Representative of Chile to the United Nations. Reference was made to the statements made on behalf of the Government of Chile by its observers at the thirty-first session of the Commission and in the Social Committee at the fifty-eighth session of the Economic and Social Council. The Government of Chile was informed that the Chairman of the Ad Hoc Working Group envisaged that in the light of the communication of the Government of Chile of 11 April 1975 and other considerations the visit to Chile would begin on 10 July 1975 (annex IX).

44. By a note verbale dated 15 May 1975 the Permanent Representative of Chile acknowledged the receipt of the Secretary-General's note of 7 May 1975 and reiterated to the Secretary-General the assurances of his Government's "fullest support for the activities which the Working Group will carry out in its territory in order to discharge its task fully and without delay". (annex X)

45. A further confirmation of the Chilean Government's acceptance of the visit of the Ad Hoc Working Group of the Commission on Human Rights to Chile could be found in statements to the press during the visit of the Foreign Minister of Chile, Vice Admiral Patricio Carvajal Prado, to the United States and at the Headquarters of the United Nations in May 1975.

46. As indicated earlier, <sup>4/</sup> in a telegram dated 13 May 1975 the Minister of Foreign Affairs of Chile announced that the Government of Chile had appointed Mr. Sergio Diez as Ambassador Extraordinary and Plenipotentiary in all matters relating to the visit of the Working Group of the Commission on Human Rights to Chile. The Ambassador Extraordinary of the Government of Chile, accompanied by a legal adviser and a diplomatic adviser, appeared before the Working Group during its organizational meetings held in May 1975 in Geneva. During and after that period, consultations on various matters relating to the visit of the Ad Hoc Working Group to Chile took place with the Chairman of the Group and the Director of the Division of Human Rights. Information was also furnished to the Group by the Chilean delegation on certain legal provisions in force in Chile relevant to matters on which the Group would conduct its inquiry.

47. At the request of the Working Group the Director of the Division of Human Rights discussed with the Chilean authorities questions relating to the status of the members of the Working Group and of the members of the United Nations Secretariat accompanying it while the Group would be performing its functions in Chile. He also sought guarantees for the safety of persons whom the Group might wish to hear in Chile. In two separate letters dated 17 June 1975, the Permanent Representative of Chile to the United Nations Office and other

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<sup>4/</sup> See chap. I, note 17.

International Organizations at Geneva confirmed that, in addition to the privileges and immunities to which they would be entitled under the Convention on the Privileges and Immunities of the United Nations, the five members of the Ad Hoc Working Group and the members of the Division of Human Rights accompanying it would enjoy full diplomatic privileges and immunities and would be granted diplomatic visas. He also confirmed that persons who would be in contact with the Ad Hoc Working Group "will not be subject to any measures of coercion, sanction or discipline because of such contacts, and that the Government will not institute any judicial action against them on such grounds". (annex XI)

48. On 26 June 1975 a communication was received by the Secretary-General from the Permanent Representative of Chile to the United Nations asking for confirmation of the names of the members of the Group and of the administrative team that would accompany the Group, and also the date and duration of the visit upon which the Group had agreed. The purpose of this request, as indicated, was "to make the necessary preparations for the practical aspects of this visit and to attend to the requirements of the members of the Group and its staff in the best possible manner". In the same letter the Permanent Representative informed the Secretary-General that

"the Government of Chile wishes to point out that its acceptance of the Ad Hoc Working Group's visit to its territory constitutes a sovereign decision without precedent in international relations which has been taken with the understanding that at the time of this visit or afterwards the United Nations will adopt the necessary measures to act likewise in countries which for many years have been criticized throughout the world because of their continuing and systematic violation of human rights, such as the Union of Soviet Socialist Republics and Cuba". (annex XII)

49. In a letter dated 30 June 1975 addressed to the Permanent Representative on behalf of the Secretary-General, the composition of the Group and the names of members of the staff of the Division of Human Rights were communicated to the Government of Chile and the dates of the visit of the Group to Chile were confirmed as from 10 July to 26 or 27 July. As regards the other question raised in the letter of 26 June of the Permanent Representative of Chile, the following statement was made:

"Due note was taken of the contents of the second paragraph of Your Excellency's note. As the Secretary-General had the honour to inform Your Excellency in his note verbale dated 7 May 1975, the visit of the Group will take place in pursuance of resolution 8 (XXXI) referred to above which was approved by the Economic and Social Council at its 1948th meeting. Your Government expressed its acceptance of the terms of the resolution and of the visit of the Group to Chile in statements made in the Commission on Human Rights and in the Economic and Social Council as well as in the note verbale addressed to the Secretary-General on 15 May 1975. The Secretary-General cannot commit the United Nations organs responsible in the field of human rights as to the action they may take in other specific situations. These organs are seized of questions within their competence in accordance

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with their rules of procedure and act with respect to such questions in conformity with the functions entrusted to them under the Charter."  
(annex XIII)

50. Informal conversations and consultations by the Chairman of the Group and members of the Secretariat with representatives of the Chilean Government continued as late as 27 June 1975 on matters relating to the visit of the Group to Chile. There was no indication whatsoever that the formal approval of the visit, repeatedly given by the Government of Chile, would be reconsidered.

51. On 4 July 1975 the Chairman of the Ad Hoc Working Group was informed by the Secretariat of the United Nations that the Chilean Government had decided to withdraw its acceptance of the Ad Hoc Working Group's visit to Chile. That information had been conveyed on the telephone by the Permanent Representative of Chile to the United Nations to the Executive Office of the Secretary-General and transmitted to the Chairman by the Director of the Division of Human Rights, Principal Secretary of the Group. Upon his arrival in Lima in the evening of 4 July, the Chairman was met at the airport by the Ambassador of Chile to Peru, who had been instructed to convey the same information to him on behalf of the President of Chile. The Chairman was requested by the Ambassador of Chile on behalf of President Pinochet not to make, for the time being, any statements to representatives of news media. In both communications it was made clear that the Chilean Government's decision was not attributable to the Chairman or the members of the Working Group personally nor to any statements that had been made by them. In the view of the Chilean Government the time was not right for the Group to go to Chile.

52. The Chairman expressed his surprise at the withdrawal of the acceptance of the Group's visit to Chile at a time when its members were already travelling to Lima. He made it clear that in his view the Group was under an obligation to present reports to the General Assembly and the Commission on Human Rights and that the lack of evidence gathered on the spot would unavoidably adversely affect the performance of the Group's functions and its consideration of facts and situations which the Government of Chile had previously wished to present to the Group. The Chairman asked the Ambassador to convey his request to the President of Chile to give further consideration to the question of the visit in the light of all the relevant factors and expressed the hope that a reply in this regard would reach him not later than the evening of 8 July 1975.

53. On 5 July the press reported the main lines of a speech made on the evening of 4 July by General Pinochet in Vallenar, during a trip the President of the Chilean Republic was making through the northern part of Chile. General Pinochet said, inter alia: "World marxism, which senses that it has lost this battle, does not hesitate to express condemnations and to send permanent commissions to see if human rights are being observed here". He went on to ask "How many commissions on human rights have been sent to ... other parts of the world where the most horrible crimes are being committed?" He then stated: "I have taken a momentous decision. I have asked that the Commission on Human Rights should not come to Chile. I know that this will produce many reactions in the marxist world and that they will continue to abuse us. We are David and they are Goliath

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but Chile is a free and sovereign country." The same press item recalled that on 3 July the Minister of Foreign Affairs had said that the Government of Chile had made plans to "facilitate the work of the United Nations Commission" in Santiago and in the provinces. 5/

54. On 8 July 1975 the Group was informed that the Secretary-General had publicly expressed regret as to the decision taken by the Chilean Government to refuse entry to the Ad Hoc Working Group. The Secretary-General had said that this was not helpful in clarifying the situation and that he hoped that the Chilean Government would review its decision in order to permit the Ad Hoc Working Group to fulfil its mandate.

55. Members of the Group, as they arrived in Lima, held consultations to discuss the situation thus created. On 8 July the Ambassador of Chile in Péru announced to the Chairman the arrival of two emissaries who wished to convey a message to him from the President of Chile. The delegation consisted of an official of the Ministry of Defence and an official of the Ministry of Foreign Affairs of Chile. They informed the Chairman that the purpose of their visit was to supply additional information on behalf of President Pinochet on the reasons which had motivated the reversal of the attitude of the Government of Chile. The decision had apparently been "very painful" to the President of Chile but had been taken in view of new facts which had occurred on the international scene and inside Chile. Internally, it was stated, there existed absolute security in Chile for all citizens and while it was recognized that after the 1973 change of Government some questions of respect of human rights might have existed, at present, after nearly two years had elapsed, the situation was completely different and the problems in Chile as regards human rights were practically solved. It was further said that in the previous week there had been indications that the presence of the Group might give rise to undesirable incidents. The fact was pointed out that about 20 persons had tried to enter the embassy of a Latin American country and had expressed the wish to stay there until the Working Group had reached Chile; another embassy had also received certain refugees. As to the international scene, mention was made of certain actions that had been taken in relation to the Government of Chile. References were made to the position of certain Governments as to the renegotiation of the external debts of Chile, to statements in the Economic and Social Council and to the decisions of the International Labour Conference and of the World Conference of the International Women's Year, as well as to the activities of Chilean political exiles, to foreign broadcasts, etc. In a "very special message" addressed to the Chairman of the Ad Hoc Working Group, the President of Chile stated that he would be ready to receive him personally in a private capacity to further explain the reasons of the Chilean Government's refusal to admit the Working Group into Chile. During the meeting, the text of a written statement of the Government of Chile was delivered by the two emissaries to the Chairman. But its contents were not discussed by the said emissaries with

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5/ UPI dispatch from Santiago, Chile, of 4 July, as reproduced in the Lima newspaper El Comercio of 5 July 1975.

the Chairman. 6/ These were the only main reasons given on behalf of President Pinochet to the Chairman for the withdrawal of the invitation.

56. The Chairman of the Group replied that he had noted the statements of the President of Chile as reported in the press. He requested the emissaries of the Government of Chile to provide the Group with the full text of the speech made by General Pinochet on 4 July and to give him in writing the various reasons which they had given orally for the refusal of the Government of Chile to admit the Working Group. He said that there was no question of his going to Chile without the other members of the Group or for any other purpose than to perform the functions that had been entrusted to the Group by the Commission on Human Rights. He expressed surprise at the fact that, contrary to generally recognized rules of hospitality, the Government of Chile had suddenly reversed its decision when the members and himself had reached Lima after having undertaken such extensive travel. He recalled that the Group had expressed its sympathy with the Chilean people and its wish to co-operate with the Chilean authorities while performing its functions. He could not discuss on his own the reasons given but would report to the Ad Hoc Working Group on his conversation with the envoys of the President of Chile. He once again expressed the hope, however, that President Pinochet would review his decision and inform the Group before the evening of 9 July, the eve of the scheduled departure of the Working Group to Chile.

57. On the evening of 9 July a letter signed by one of the envoys, Mr. Oswaldo Salas, as a special delegate of the Government of Chile, was handed to the Chairman (annex XIV). It referred to the documents which the Chairman had requested on 8 July but did not contain the information which the Chairman had requested. The letter stated, inter alia, that the President of the Chilean Republic "much to his regret" had had to cancel the visit to Chile by the Working Group "until a more auspicious occasion". The Chilean Government considered that, as the visit of the Ad Hoc Working Group to Chile was an essential element of the resolution which laid down the Group's terms of reference, the Group could not continue to function. It was stated that "the testimony of exiles or persons opposed to Chile residing abroad and therefore unacquainted with the present situation of respect for human rights that prevails in Chile can scarcely serve as a basis for an objective and impartial report". In conclusion, the communication said "that the Working Group ... should disqualify itself, for the time being, and so inform the Commission which appointed it."

58. On 10 July 1975 the Working Group held a formal meeting at which it approved unanimously the text of a statement (annex VI), which the Group requested should

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6/ An identical text was communicated to the Secretary-General on 7 July 1975 by the Permanent Representative of Chile to the United Nations, with the request that the communication be circulated as an official United Nations document to the representatives of Member States. The Group was informed that the statement would be circulated under cover of a note verbale.

be issued as a press communiqué at United Nations Headquarters in New York and at the United Nations Office at Geneva and be communicated to all Member States of the United Nations in the same manner as the Chilean "official statement" of 7 July 1975.

59. The Group's statement referred to the sudden and unexpected announcement of the Government of Chile and recalled that it was contrary to the previously repeated acceptances of the decision of the Commission on Human Rights, in resolution 8 (XXXI), that the Group should visit Chile. Having examined carefully the reasons advanced by the Government of Chile, the Group felt that "none of these reasons are of such a nature as would justify the unilateral withdrawal from an agreement to a course of action considered by the competent United Nations organs as conducive to the promotion of human rights in Chile, and to which the Government of Chile had all along been a willing party." It pointed out that "the circumstances described as grounds for cancellation of the acceptance or for its indefinite postponement existed at the time the relevant resolutions of the United Nations organs were adopted with the concurrence of the Government of Chile". The Group repeated that it was "concerned solely, and to the exclusion of all other considerations, with assessing the situation in Chile as regards respect of human rights, in the light of the obligations accepted by the Government of Chile in international instruments concluded under the auspices of the United Nations". Its purpose was "to ascertain to what extent human rights are restored in that country, which was stated to be the objective of its present Government". The Group recalled its commitment to go into Chile without any preconceived ideas or prejudices. The statement concluded:

"The Group considers that it is under obligation to perform as completely as possible the tasks entrusted to it under the resolutions which established it, and to report to the General Assembly through the Secretary-General, and to the Commission on Human Rights, particularly on the basis of oral and written evidence to be gathered from all relevant sources. It will not be intimidated or deterred in continuing to perform its responsibilities. It regrets deeply the present attitude of the Government of Chile in trying to prevent it from fulfilling its noble task, as fully as the United Nations organs had wished and as the Government of Chile on numerous occasions had agreed."

60. At the conclusion of the meetings it held in Caracas in July 1975, the Group was apprised of various declarations of the Government of Chile through diplomatic channels or through the press. It felt compelled to make a further statement, which was adopted unanimously by its members and issued at a press conference held on 21 July 1975 (annex VII). The statement included the following passage:

"As regards the recent declarations of the Government of Chile ... regarding future activities of the Working Group in circumstances which are of that Government's own making, the Group is firmly of the view that the resolution, which determines its terms of reference, does not give to the Government of Chile the right to determine when the Group should work, whether or not and when it should suspend its activities, and under

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what conditions it should continue to work on the tasks entrusted to it. The Working Group cannot accept unilateral and unwarranted interpretations of decisions taken by the United Nations, which the Government of Chile has chosen to give in order to suit its own purposes. The Group will, therefore, continue with its task and meet as planned ... The Working Group is determined to continue to approach the task entrusted to it with complete objectivity and impartiality. It is confident that the world community will judge the reports of the Working Group on their merits and take such measures as it may deem necessary."

The statement concluded with the following: "If the Government of Chile so desires, the Working Group will be prepared to receive information, oral or written, relevant to its mandate which the Government of Chile may wish to place before it, provided this is done without putting any obstacles in the way of the work of the Group."

61. In the days following the issuance of the Group's statements of 10 July and 21 July, the Group received a number of oral and written expressions of support of its position as to the continuation of its task.

62. The Group found it necessary to explain in detail the circumstances known to the Group of the change of attitude of the Government of Chile in regard to implementation of the resolution of the Commission on Human Rights. It had considered that it could rely in the planning of its work on the formal and informal assurances by a Government of a Member State of the United Nations. The decision of the Government of Chile has created a situation whereby a Member State has unilaterally withdrawn from an agreement which it had expressly committed itself to honour. The Group considers that it cannot accept the injunctions of the Government of Chile that the Group should not perform to the fullest extent possible a mandate entrusted to it by competent United Nations organs. The fact of the unilateral withdrawal of the agreement to receive the Group by the Government of Chile did not and will not distract the Group from the obligations of objectivity and impartiality to which its members pledged themselves. The present progress report is submitted to the General Assembly in keeping with this spirit. The Group's observations and findings on matters of concern to the United Nations and the world community are presented in the following chapters.

### III. CHILEAN CONSTITUTIONAL AND LEGISLATIVE PROVISIONS RELEVANT TO THE INQUIRY CONDUCTED BY THE GROUP

63. It appears to the Ad Hoc Working Group that if some basic information is given to the General Assembly on certain provisions of the Chilean Constitution and legislation which are relevant to the inquiry conducted by the Group, it would be helpful for the understanding of this report. Within the context of the progress report, these data must necessarily be brief. Further information may be found in reports of organizations that have studied the situation of human rights in Chile which were available to the Commission on Human Rights at its thirty-first session and in comments of the Chilean Government thereon. 1/

#### The traditional system

64. The constitutional system of Chile has traditionally been considered, from the point of view both of the governmental institutions and of the existence and application of provisions relating to the respect of human rights and fundamental freedoms, as particularly advanced and praiseworthy from the standpoint of democratic principles. In the United Nations, since the establishment of the Organization, representatives of Chile have played an outstanding role in the work of the United Nations organs that drafted the various international instruments in the field of human rights. Chile is, inter alia, a party to both International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention relating to the Status of Refugees, and the Geneva Conventions of 12 August 1949. It also signed the American Convention on Human Rights of 22 November 1969, which is indicative of the American international normative system on this matter.

65. The Constitution of the Republic dates from 18 September 1925. It was amended in 1943, 1957, 1959, 1967, 1970 and 1971, without any substantial change having been made in the basic structures and provisions relating to human rights. The

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1/ See Organization of American States, Inter-American Commission on Human Rights, "Report on the status of human rights in Chile: findings 'on the spot' observations in the Republic of Chile, July 22-August 2, 1974" (OEA/Ser.L/V/II.34, Doc.21 Corr.1), and Organization of American States, Permanent Council, "Observations by the Government of Chile on the report on the status of human rights in Chile prepared by the Inter-American Commission on Human Rights" (OEA/Ser.G, CP/doc.385/74), both transmitted to the Commission on Human Rights by letter of 10 January 1975 of the OAS and circulated to the members of the Commission in document E/CN.4/1166/Add.3; and Final report of mission to Chile, April 1974, to study the legal system and the protection of human rights (Geneva, International Commission of Jurists, 1974), circulated to the members of the Commission on Human Rights at its thirty-first session in document E/CN.4/1166/Add.4.

amendments seemed in general to lead to a greater degree of control over the action of the executive and to the establishment of a balanced constitutional relationship between the various organs of government.

66. There is great stress in the 1925 Constitution, as amended, <sup>2/</sup> on the Government being "representatively democratic". The sovereignty is vested in the nation, its exercise being delegated to the authorities that the Constitution establishes. Article 3 emphasizes that "no person or assembly of persons has authority to arrogate the title or representation of the people, to usurp its rights, or to make demands in its name. Violation of this article is sedition". Article 4, in which this concept is emphasized, reads: "No magistracy, or person, or assembly of persons, not even under the pretext of extraordinary circumstances, is empowered to assume any other authority or rights than those that have been expressly conferred upon them by the laws. Every act in contravention of this article is void."

67. The President of the Republic is entrusted with the administration of the State as "the Supreme Chief of the Nation". He is to be elected by direct vote of the citizens for a period of six years. He shares legislative power with the National Congress in a system similar to that prevailing in the United States and is responsible, *inter alia*, for the execution of the laws, appointments to the high offices of the State, and dismissal of officials designated by him "for incompetency or other cause that may render their services unuseful or prejudicial". He can, with the approval of the Senate, command in person the sea and land forces and has the right of pardon. In case of the death of the President or his resignation or inability to perform his functions, a new election of a President has to take place, within 60 days, in the manner prescribed by the Constitution.

68. The President appoints the ministers, and all his official enactments have to be countersigned by the competent minister. Every minister is personally responsible for his own acts, and jointly and severally for those he may subscribe or agree to with other ministers.

69. As indicated above, the legislative power was shared by an elected National Congress, consisting of a Chamber of Deputies and a Senate, and the President. Deputies and senators were inviolable as regards the opinions they expressed and the votes they cast in the discharge of their offices, and the constitutional guarantees granted to them could not be curtailed even in the case of a state of siege. Except in a case of arrest *in flagrante delicto* they could only be indicted, prosecuted or arrested if the Court of Appeals had previously authorized the indictment subject to appeal to the Supreme Court. The National Congress could formulate accusations against the President of the Republic, ministers, magistrates of the higher courts of justice, the Comptroller-General of the Republic, senior officers of the armed forces, and intendants or governors of major territorial subdivisions of the State, on a number of grounds, including "having compromised

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<sup>2/</sup> The texts quoted from the Constitution are taken from Constitution of the Republic of Chile, 1925 (as amended) (Washington, D.C., General Secretariat of the Organization of American States, 1972).

gravely the security or the honour of the nation", or, in the case of the President, for acts of his administration which openly infringed the Constitution or the laws.

70. The freedom of citizens to establish political parties and to join them was fully recognized, as was the right of parties to act freely in the political life of the nation.

71. The Constitution provided that the power of judging civil and criminal cases belongs exclusively to the tribunals established by law, without any interference by the executive or the legislative branches. It stated that "only by virtue of a law can a change be made in the attributes of the courts or in the number of their members". Judges were personally liable, inter alia, for bribery, for failure to observe the laws governing procedure and in general for betrayal of trust or perverted administration of justice. The Supreme Court and a Constitutional Court, recently set up, could decide on such matters as questions of incompatibility of legislation with the Constitution and on disputes over the respective competence of the various organs of the State. The Supreme Court had direct supervision over all the tribunals of the nation.

72. As to the armed forces, two provisions of the Constitution appear to have been aimed at removing them as completely as possible from political action. Article 22 states that "the public force is constituted solely and exclusively by the Armed Forces and the carabinero guards, which entities are essentially professional, organized by rank, disciplined, obedient and nondeliberating". Article 23 states: "Every resolution the President of the Republic, the Chamber of Deputies, the Senate or the Courts of Justice may agree to in the presence of or on demand of an army, a commandant at the head of an armed force, or of any assembly of people, with or without arms and in disobedience of the authorities, is null in law and cannot produce any effect".

73. Article 121 of the Penal Code establishes that in case of armed uprising against the legally constituted Government in order to promote civil war, to change the Constitution or the Government, to deprive of their functions the President or Acting President of the Republic or a member of the National Congress, those found guilty will be subject to sentences of severe imprisonment, long-term banishment, or expulsion ("extrañamiento"). 3/

74. The Constitution ensured to all the citizens the free exercise of political rights "under a democratic republican system"; it also contained several provisions relating to economic, social and cultural rights. Article 10 contains provisions on human rights and fundamental freedoms on the pattern of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, including equality before the law, freedom of practice of all beliefs, freedom of conscience, the free exercise of all religions subject to the limitations of "morality, good usage and public order", freedom of expression of

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3/ See articles 33 and 34 of the Penal Code.

opinion and of the press ("Upholding and publicizing any political idea may not constitute a crime or abuse"), the right of assembly without arms, the right of association. The right of petition, freedom of education and academic freedom were also guaranteed. Detailed provisions existed concerning the right to own property in its different forms. Specific provisions existed as to the inviolability of the home. "The house of any person living in Chilean territory can be forcibly entered only for a special purpose, determined by law, and by virtue of an order from the competent authority", states the Constitution. The inviolability of correspondence, including telephone communications, was also ensured, as well as the freedom to reside in any part of the Republic, to move from one place to another "or to enter or depart from the territory, under the condition that the legal requirements be observed". As to economic and social rights, the Constitution listed, *inter alia*, the freedom to work and job protection, the right to employment, to sufficient remuneration, to association in labour unions, the right to strike in accordance with the law, the right to social security and the right to participate in the social, cultural, civic, political and economic life "for development of the individual to the fullest and his inclusion in the national community".

75. Detailed provisions are contained in the Constitution regarding arrest, detention and fair trial. They are further elaborated in the Penal Code and the Code of Penal Procedure. The Constitution provides, *inter alia*, that "No one can be sentenced unless he be legally tried in accordance with a law promulgated prior to the act upon which the trial is based" (article 11); "no one can be detained, prosecuted, arrested or deported except in the manner determined by the law" (article 10, para. 15); and that "no one can be arrested except by the order of a public functionary expressly empowered by law, and after such order has been made known to him, in legal form, unless he be surprised *in flagrante delicto*, and in this case for the sole purpose of being brought before the proper judge" (article 13). Any authority ordering the arrest of a person must within 48 hours make a report thereof to the proper judge and place at his disposal the person detained (article 15). Torture is prohibited as well as confiscation of property (article 18); article 12 states that "No one can be tried by special commissions, or otherwise than by the tribunal the law appoints and has previously constituted".

76. A fundamental provision of the Chilean Constitution is that contained in article 16, which establishes the "recurso de amparo", a remedy analogous to habeas corpus. That provision states that any individual who may be arrested, charged or imprisoned contrary to the provisions of the foregoing articles (on arrest, detention or imprisonment) "may apply, for himself, or by anyone in his name, to the judicial authority designated by law, petitioning that the legal requirements be observed. This judicial authority shall order the individual to be brought before him and his order shall be exactly obeyed by all those in charge of the prisons and places of detention. Informed of the facts he shall declare his immediate release, or cause the legal defects to be corrected, or put the individual at the disposition of the proper judge, proceeding throughout in a brief and summary manner, correcting the defects personally, or referring them for correction to whomever it may concern".



77. Under article 298 of the Code of Criminal Procedure, detained or imprisoned persons may be held incommunicado by the judge when this is indispensable for the investigation and verification of the offence. Article 299 specifies that the period for which a detainee can be held incommunicado may, if necessary, continue throughout his detention and, if such detention is converted into preventive custody, it may be extended for a period of 10 days and further extended for a reasonable period in case of inquiries which have to be made at considerable distances or outside the Chilean territory. In case new evidence is brought to light pertaining to the case in the course of investigation the judge may again place the detainee incommunicado for not more than five days (article 300). The person held incommunicado may consult his lawyer in the presence of the judge (article 301).

78. Under chapter II, article 6, of the Chilean Constitution, Chilean nationality could be lost on certain grounds, including the lending of aid during war to the enemies of Chile or their allies. The penalty of "extrañamiento", i.e. expulsion from the territory of the Republic of Chile to the country of his choice, of a person sentenced on certain criminal grounds was provided for in article 34 of the Penal Code.

79. Situations of exception were envisaged in the 1925 Constitution; in case of a foreign war, under the provisions of article 72, paragraph 17, the President was empowered to declare in a state of assembly one or more provinces that had been invaded or menaced and to declare one or several parts of the Republic to be in a state of siege. In the case of internal disturbance, the declaration of one or more places being in a state of siege was to be made by Congress. If Congress was not in session, the President could make such a declaration for a determined period. Through the declaration of a state of siege the President had the authority to transfer persons from one part of the country to another and to keep them confined, but only in their own houses or in places other than prisons, or in places other than those intended for the confinement or imprisonment of ordinary criminals. Measures taken on account of the state of siege could not last longer than the state of siege itself.

80. Conditions for amending the constitutional provisions stated that an amendment must be approved in each Chamber under special conditions of majority as well as by the President of the Republic. If there was no such agreement between these two branches of Government, consultation of the nation by means of a plebiscite was foreseen.

#### Legislative changes since 11 September 1973

81. On and after 11 September 1973, the Government in power has amended the Constitution in letter and in spirit, without regard to the constitutional provisions referred to in paragraph 18 above.

Purpose and powers of the present Government

82. The present governmental system in Chile was established on 11 September 1973 as a result of the taking over of the organs of the State by the Commanders-in-Chief of the Army, the Navy and the Air Force and the Director-General of the Corps of Carabineros. Decree-law No. 1 of that date, published in the Diario Oficial on 18 September 1973, states that these four components of the armed forces represent the organization with which the State has endowed itself "for the preservation and defence of its physical and moral integrity and of its historical-cultural identity"; that its supreme mission is to ensure above any other consideration, the survival of the said realities and values; and that "Chile is undergoing a process of systematic and complete destruction of these constituent elements of its being, as a result of the introduction of a dogmatic and exclusive ideology, inspired by the alien principles of Marxism-Leninism". The Government Junta assumed the supreme command of the nation, "in order to restore the shattered 'Chilinidad', justice and institutionality", true to national traditions. General of the Army Don Augusto Pinochet Ugarte was designated as President of the Junta. The decree further states that the Junta, in the exercise of its mission, "shall guarantee the full effectiveness of the powers of the Judiciary and shall respect the Constitution and laws of the Republic to the extent possible in the present situation of the country for best fulfilling the objectives it has set itself" (annex XV).

83. It follows from the above text, as confirmed by such analyses as the Group could make of legal texts and of testimony heard, that the Constitution of the Republic of Chile of September 1925, as amended, is still considered to be in force. On 12 November 1973, decree-law No. 128 stated, however, that the Government Junta had assumed since 11 September 1973 the exercise of the constituent as well as legislative and executive powers. Decree-law No. 788 of 4 December 1974 noted that in certain cases decree-laws may have appeared as derogating from or modifying certain constitutional provisions, and stated that such decree-laws should be considered as modifying the relevant provisions of the Constitution either expressly or tacitly. In future, decree-laws that did not conform to constitutional norms would modify these norms only if it was expressly indicated that the Government Junta promulgated them in the exercise of its constitutional power.

84. Information before the Working Group indicates the existence of a Commission of Constitutional Reform. A preliminary report was issued by that Commission in November 1973 stating, inter alia: "The new constitutional structure shall protect the assurance and strengthening of the democratic system and the rule of law, which are the basic pillars supporting the fundamental rights of human beings, and which in turn make possible the normal evolution of the country". No time-limits were set, however, for the Commission to complete its work. The Group has had no recent reports on the activities of that Commission. On 16 June 1975 President Pinochet is reported as having said that there would be no election in Chile in his lifetime or in that of his successor.

85. A decree-law of 16 December 1974 (No. 806) states that "the executive power is exercised by the President of the Government Junta, who, with the title of

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President of the Republic of Chile, administers the State and is the Supreme Chief of the Nation, with the powers, attributions and prerogatives vested in him". The constitutional and legislative powers belong to the Junta as a group.

86. On 8 October 1973, by decree-law No. 77, and on 26 November 1973, by decree-law No. 145, several political parties, i.e. the Communist Party, the Socialist Party, the Popular Socialist Union, the Movimiento de Acción Popular Unitaria (MAPU), the Radical Party, the Christian Left Party, the Independent Popular Action, the Partido de la Unidad Popular and all other parties or groups "with Marxist or related tendencies" were declared illegal and dissolved. By decree-laws No. 78 of 11 October 1973 and No. 436 of 22 April 1974, all other political parties, entities and groups were suspended.

#### Dissolution of the National Congress

87. The National Congress was dissolved by decree-law No. 27 of 21 September 1973 and the members of parliament were relieved of their functions as of that date; this deprived them of the immunities guaranteed under the Constitution. Electoral registers were declared obsolete. All mayors and municipal councillors (regidores) were relieved of their functions as of 11 September 1973. The Constitutional Tribunal provided for in article 78 (a), (b) and (c) of the Constitution was dissolved as of 5 November 1973 and its members were relieved of their functions.

#### Judiciary

88. As regards the judiciary, the present régime in Chile has proclaimed its intention to preserve its effectiveness and independence. The pertinent provisions of decree-law No. 1 have been mentioned earlier. Decree-law No. 128 of 12 November 1973 states that "The judicial power will exercise its functions in the form and with the independence and competence laid down in the Political Constitution of the State". The proclamation of the state of siege, however, affected to a considerable degree the scope of jurisdiction of the ordinary courts. "Time of war procedures" replaced "time of peace procedures".

#### State of siege

89. The state of siege was proclaimed by decree-law No. 3 of 11 September 1973, published in the Diario Oficial on 18 September 1973. In the whole territory of the Republic, the Junta assumed "the powers of Commander-in-Chief of the forces which will operate during the period of emergency".

90. The provisions relating to the state of siege have been systematized in the following way in decree-law No. 640 of 2 September 1974, as modified by decree-law No. 1009 of 5 May 1975. The decree lists, inter alia, the state of war, external or internal, the state of assembly and the state of siege and indicates the parts of the Code of Military Justice that should be applied in each case. As regards the state of siege, it is established that the declaration of the state of siege will take place in the following cases: (a) in case of danger of external

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attack or invasion, regardless of whether the threat comes from the exterior or results from acts of Chileans; (b) in case of internal disturbance, whatever may be its nature. Several levels of the state of siege are provided for:

- (i) A state of siege in a situation of internal or external war;
- (ii) A state of siege at the level of internal defence, which would be proclaimed in case of internal disturbance (commotion) provoked by "rebel or seditious forces already organized or in process of being organized, whether in the open or in clandestinity";
- (iii) A state of siege at the level of internal security, which will be proclaimed when the disturbance is provoked by non-organized rebel or seditious forces; and
- (iv) A state of siege at the level of simple internal disturbance, which may be proclaimed in other cases provided for in the legislation in force.

91. This state of siege was proclaimed on the basis of article 72, paragraph 17, of the Constitution and book 1, title III, of the Code of Military Justice. It was declared that by an interpretation of article 418 of the Code of Military Justice the state of siege, which had been decreed for reasons of "internal disturbance", should be understood in the circumstances in which the country found itself as "a state or time of war" for the purpose of the application of the penalties established by the Code of Military Justice and other penal laws and in general as regards the other effects of such legislation. The state of siege was extended for six months, beginning 11 March 1974. Decree-law No. 641 of 2 September 1974 stated that it was not necessary further to maintain the situation of internal war declared in September 1973 but that the state of siege at the level of "internal defence" was to be extended for a period of six months as from 11 September 1974. There was a further extension at the same level of "internal defence" for a period of six months beginning 11 March 1975. The state of siege is thus to expire on 11 September 1975, unless it is further extended before that date.

#### Human rights in the state of siege

92. It is evident that the proclamation of the state of siege is having a very marked effect on the structures and functioning of criminal jurisdiction in Chile. The change lies essentially in the conduct of criminal proceedings in the special courts, whose powers have been increased and whose competence has been extended considerably, at the expense of the judicial or ordinary law courts. Under the "time of peace procedures", individuals tried by military tribunals were guaranteed certain rights calculated to enable them to defend themselves properly. Thus, at the stage of the preliminary investigation (sumario) conducted by a specially designated officer (fiscal), the accused, although not assisted by counsel, was detained for only a brief period before being sent before the trial court. If found guilty, the defendant could appeal against the decision to a military court composed of two practising military assessors (auditores), one retired auditor and two judges of the Court of Appeals, the senior of whom presided.

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93. In the state of siege, under which the "time of war procedures" applicable to criminal proceedings before military tribunals have been introduced, the safeguards for the rights of the defence have been sharply curtailed, since the preliminary investigation is conducted by the fiscal, who must complete it within 48 hours, with no counsel present. If, by the end of the preliminary investigation, the defendant has not engaged counsel, it is for the prosecution to appoint a defence counsel ex officio. The military commander competent for the area concerned immediately convenes the competent court, which is called a "council of war" (consejo de guerra). This tribunal, which may pronounce judgement within 48 hours, is composed of seven officers, of whom only one - who is appointed the auditor - has legal training. Contrary to normal practice, there is no separation between the functions of prosecution, investigation and judgement; the fiscal who has conducted the investigation presents the case against the accused at the public hearing. The judgement rendered by the consejo de guerra is drawn up by the auditor and immediately communicated to the convicted defendant and to the fiscal. The decision is then communicated to the competent military authority, which approves it or varies it, and from whose ruling there is no appeal.

94. Although human rights, fundamental freedoms and the rights of the defence have not been expressly abrogated by the present Government, the essential result of the arrangements instituted by the decree-laws and the way in which these have been interpreted and applied has been to bring into prominence the military tribunals before which special procedures of a summary and expeditious nature are applied. Though the traditional safeguards of the judiciary seem in form to have been maintained, there is no denying that the role of the ordinary courts has been cut to the bare minimum and that they cannot under any circumstances deal with an offence connected with the state of siege. The Supreme Court of Chile has set a clear pattern of judicial procedure by stripping the ordinary courts of the power to deal at first instance, on appeal or in cassation with offences currently falling within the competence of the military tribunals.

95. This is an appropriate point at which to consider the import and effectiveness of decree-laws Nos. 1008 and 1009 of 5 May 1975, which seem designed to curb the repressive fervour of certain new institutions. On 5 May 1975, after the appointment of a new - civilian - Minister of Justice, two decree-laws were adopted, 1008 and 1009, modifying article 15 of the Constitution. On the ground of the importance to be attached to offences against national security and to investigations in their regard by the competent judges, the time-limits provided in article 15 of the Constitution regarding arrest and detention were extended from 48 hours to five days, "in the case of offences against the security of the State while a state of emergency is in effect". In decree-law No. 1009 the importance of national security was also stressed for "the protection of the legal values of man and society as well as for the economic and social development of the nation". The intention of the Government was declared to proceed with the codification of all provisions relating to national security "in order to guarantee to the country, by an adequate, systematic and harmonious instrument, defence against the action of foreigners or nationals who attempt to endanger the very life of the State or the normal functioning of its institutions whether in time of peace or in a situation of emergency".

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96. The permanent preoccupation of the Government to watch over individual freedom as an essential attribute of human dignity was stated, but it was also said that whereas "it is true that during the existence of the state of siege the administrative authorities are not restricted by any limit on the period of deprivation of liberty they may decide to impose, it has been deemed necessary to set legal limits on the period of detention in respect of the specialized organs of a technical and professional character which the President of the Republic uses in exercising the powers conferred upon him by article 72 of the Constitution". It was necessary "to repress with all vigour the preparation and incitement to the perpetration of offences against the security of the State".

97. The main feature of the new legal provisions, apart from those referring to the period of administrative detention, is that the specialized organs, such as DINA, when imposing preventive detention on persons against whom there is a strong presumption of culpability of endangering the security of the State, have to report the detention to the most immediate family members of the detainee within 48 hours; further, it is provided that the detention cannot last for more than five days. Within this period the arrested person is to be set free or brought before the proper tribunal or placed at the disposal of the Minister of the Interior. It is further decreed that the application of illegitimate pressures against detainees will be punished in accordance with the Penal Code and the Code of Military Justice. The same decree increases the penalties for various offences against the security of the State, such as transmitting orders, instructions and information, giving lodgings, hiding persons, eluding the action of justice, etc.

98. Some doubt remains regarding referral to the court which is competent ratione materiae and regarding the penalty which could be imposed if the above provisions were overlooked. It should be noted that nothing in the provisions examined above makes it lawful to detain any person for a long period without bringing him before the competent judge or court.

99. Recourse to amparo has admittedly proved to have very limited use in the situation of state of siege prevailing since September 1973. In a letter from the Minister of Foreign Affairs of Chile, reproduced in the report of the Inter-American Commission on Human Rights of the Organization of American States, addressed to the Chairman of the Commission on 10 January 1974, it was stated that while this right is fully enforced for crimes subject to ordinary jurisdiction, "with regard to crimes subject to military jurisdiction, remedy of habeas corpus is not applicable as a consequence of the country's being in a state of siege which, under decree-law No. 5, is equivalent to a state of 'time of war'". It was also stated in that communication that the remedy of amparo from decisions of the President of the Republic issued in the exercise of the special powers granted to him by the political constitution in article 72, subparagraph 17, was also not possible when a state of siege has been declared. Regular courts may not judge in this exceptional situation the political or de facto basis the governing authority has used to order a restrictive measure that is authorized and duly issued". Decisions of the Supreme Court of Chile were quoted which denied the remedy of amparo. It is also provided that anyone who may enter the country in a clandestine manner may be sentenced to death, if the entry may be considered as an attempt against the

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security of the State. The same letter recalled that according to the provisions of article 74 of the Code of Military Justice, military courts in time of war are under the authority of the commanding general of the particular territory, and the supreme court and regular courts do not have jurisdiction over them.

100. In addition to the question referred to above concerning the liberty and security of individuals, several provisions of decree-laws affect other human rights. Decree-law No. 12 of 17 September 1973 restricted trade union rights. The Central Unica de Trabajadores (CUT) was deprived of its juridical personality. It was dissolved and its property liquidated. This union represented the great majority of Chilean workers. The reason given was that it had become a political body "under the influence of foreign tendencies and alien to the national feelings". Decree-law No. 81 of 11 October 1973 restricted freedom of movement in several ways, for example, as regards expulsion of Chileans and cancellation of passports of Chileans abroad. The entry into Chile of nationals who promote by word or writing or by any other means disturbance of public order in Chile was also prohibited by decree-law No. 604 of 9 August 1974. Decree-law No. 175 of 3 September 1973 amended article 6 of the Constitution and laid down an additional ground for the deprivation of Chilean nationality.

#### The specialized organs of State security

101. The situation after May 1975 has been commented upon above. <sup>4/</sup> One of the main problems raised in the resolutions stating the mandate of the Group is the question of detention without charge. Until May 1975, no limitations whatsoever seemed to have been imposed on special organs entrusted with the task of safeguarding national security and the custody of arrested persons under the legislation existing under the state of siege.

102. The establishment of two bodies whose role is of direct relevance to the subject of this report should be mentioned here. By decree No. 517 of the Minister of Defence, of 31 December 1973, published in the Diario Oficial of 17 January 1974, SENDET, the National Executive Secretariat for Prisoners, was established to "deal with the problems arising out of the existence of persons deprived of their liberty under the powers derived from the state of siege". By decree-law No. 521 dated 14 June 1974 <sup>5/</sup> the Dirección de Inteligencia Nacional (DINA) was set up. The decree-law describes it as a military organ of "professional, technical character responsible directly to the Government Junta, whose mandate is to gather at the national level all information originating in the various fields of action for the purpose of producing the intelligence required for the formulation of policies, planning and adoption of measures designed to protect national security and the country's development". The DINA is directed by an officer of high rank in active service in the armed forces. The director of DINA may request the reports or past documentation that he deems necessary for the

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<sup>4/</sup> See paras. 95-98 above.

<sup>5/</sup> See annex XVI below.

efficient accomplishment of his duties from any service of the State, any local authority or any company or society operating with State representation or participation. If these requests are not complied with, the director of DINA may request the Comptroller-General of the Republic to impose administrative sanctions. Rules concerning the secrecy of certain information do not apply to information sought by DINA. Some of the provisions of the decree-law concerning DINA were published only in a restricted annex to the Diario Oficial.



IV. INTERIM FINDINGS OF THE AD HOC WORKING GROUP ON THE  
PRESENT SITUATION OF HUMAN RIGHTS IN CHILE

A. The impact on human rights of the state of siege and the extension of  
the jurisdiction of the special military courts

(a) General

103. Before presenting its observations on various specific questions in respect of which United Nations organs expressed concern, 1/ the Group finds it important to analyse further some of the more general effects on human rights of the existence of a situation of "state of siege" which results, inter alia, in extended jurisdiction of special military courts as regards matters affecting the security of the State, public order, torture, etc. The Group finds, after a critical analysis, that the prolonged application of a state of exception brings uncertainty as to the applicability of legal provisions and suspends for all practical purposes legal and procedural remedies normally available for the protection of human rights. This is an essential element in assessing the situation which the Group was instructed to study.

104. Chapter III above contains an analysis of the constitutional and legislative provisions relevant to the inquiry conducted by the Group which were in existence before the assumption of power by the present Government of Chile and a description of the major measures of a legislative character affecting the inquiry of the Group which have been introduced by the present régime.

105. It is not the intention of the Ad Hoc Working Group to discuss the present political structures of the Chilean State nor the political conditions in which the assumption of power by the present authorities took place. The mandate of the Group is exclusively to examine whether, and as far as possible to what extent, human rights, as recognized by the international community of nations, are respected in Chile. It is only from that standpoint that the question of the effects of the state of siege is considered.

(b) The impact of the state of siege on human rights

106. It may be recalled that limitations on the exercise of human rights in periods of public emergency are recognized and regulated in the instruments on human rights adopted by the United Nations. Article 4 of the International Covenant on Civil and Political Rights, which was ratified by Chile, refers to such situations. The public emergency permitting limitations must "threaten the life of the nation"; the derogations from the obligations of the Covenant should be made "to the extent strictly required by the exigencies of the situation" and may not be inconsistent with other obligations under international law or involve discrimination. No derogation may, in any event, be made from the provisions of various articles of the Covenant, including article 6, on the protection by law of the "right to life";

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1/ See para. 22 above.

article 7, which relates to the prohibition of "torture or cruel, inhuman and degrading treatment or punishment"; article 8, relating, inter alia, to servitude, forced or compulsory labour; article 15, which states that "no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed", and that a heavier penalty may not be imposed than the one that was applicable at the time when the criminal offence was committed; article 18, which relates to the right to "freedom of thought, conscience and religion" also belongs in that category of rights to which no derogation may be made even in periods of public emergency. These provisions correspond to the generally recognized international standards of human rights in emergency situations. No derogation as to the progressive achievement of economic, social and cultural rights is envisaged by the International Covenant on Economic, Social and Cultural Rights.

107. A representative of the Government of Chile before an international body functioning under a human rights convention admitted that the exercise of human rights was diluted under the state of siege. 2/ While it is difficult to assess with precision the extent to which and by whom, if at all, the far-reaching fundamental freedoms of the Chilean Constitution, such as freedom of opinion, press, assembly or association, correspondence, freedom of movement out of and into the country, and economic and social rights can in fact be invoked in the state of siege now prevailing in Chile, information received by the Group points to the fact that there is little, if any, encouragement of the exercise of rights which may affect the present political situation within the country or the social and economic policies adopted by the régime. The trend seems to be that politics and political parties are an evil and therefore should have no place in the national life of Chile.

108. The Group found that the invocation of the state of siege is being used in Chile as a justification or a cover for all kinds of measures derogating from the normal application of the laws, and for suppressions or restrictions of human rights. A variety of acts or omissions are justified by reference to the state of siege. There are no procedures of review in this regard, whether executive or judicial, which are independent of the organs entrusted with the application of repressive measures under the state of siege; there are no appeals against judgements of military courts as confirmed by military commanders. Freedom of association does not exist; there are important restrictions on political liberty; the existence of independent and impartial tribunals as regards the matters concerning State security may be questioned; persons deprived of their liberty on grounds of State security are unable to institute proceedings before the ordinary courts; persons are reported not to have been informed of any charge against them when imprisoned; the personal security of persons reported disappeared is violated contrary to guarantees in human rights instruments; families of persons held in detention on grounds of security seem not to have any legal or social protection.

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2/ CERD/C/SR.253 (provisional) of 7 August 1975, p. 12: "these provisions (of the Constitution) might not be in force in their entirety because of the application of other constitutional provisions arising from the state of siege."

109. The principle contained in the International Covenant on Civil and Political Rights of non-retroactivity of criminal laws and sentences also seems to have been subject to derogations when repressive measures were taken against persons associated with the former régime. Information was received by the Group of punitive judicial or administrative action taken in a number of instances before the relevant penal provisions were enacted, or for acts performed and attitudes taken under the previous administration.

110. But it is in the area of arrest, investigation, detention, trial and imprisonment that the major abuses have been alleged to exist. The next section of this chapter will deal with the provisional findings of the Group in this regard.

111. The constitutional provisions relating to the right of amparo were indicated in chapter III, as well as in the extract of an official statement by the Chilean Government as to their applicability in the conditions of the state of siege. An application for amparo essentially enables members of the judiciary to verify whether arrest or detention was effected in accordance with the relevant provisions of the law. The Group received extensive information as to the importance and use which can be made of that procedure under normal circumstances and the damaging effects on it of the state of siege.

112. It appeared in particular that families looking for the whereabouts of persons who had been arrested or had suddenly disappeared resorted to this procedure as an ultimate hope of obtaining information. Very few results were achieved in view of the habitual refusal of the ordinary judiciary authorities to give effect to recourses since they declare themselves without jurisdiction. It was reported in May 1975 that out of 2,000 appeals for amparo introduced, only three were accepted. According to information given to the Group by a senior magistrate of the Supreme Court of Chile, the Supreme Court does not consider itself competent to deal with recourses emanating from military tribunals.

(c) The extension of the jurisdiction of special military courts

113. It would be difficult within the context of this preliminary report to analyse in detail the extent of the jurisdiction of the special military courts. The relevant provisions of the law on the security of the State, which is part of the Code of Military Justice, have been mentioned above. The concept of offences against the internal security of the State, public order and normalcy of national activities, is defined in extremely broad terms and, in fact, it appears that under the prevailing system special military courts could assume jurisdiction over any case which is presented to them by the State organs entrusted with the task of ensuring the security of the State.

114. As regards the trial procedures of the special military courts, the Ad Hoc Working Group received oral and written statements by eminent non-Chilean lawyers who had been allowed to observe some of the proceedings "at a mass trial" of 67 persons, both military and civilian. Only one of the senior officers sitting as judges was a lawyer; the fiscal (prosecutor) was not; the defence lawyer had been appointed by the court. The atmosphere was one similar to that of a military trial, dispensing with the normal procedures and safeguards inherent in civilian

trials. The fiscal read the charges against each of the defendants. There was no live testimony called by the fiscal - merely a reading of the documents; then the defence counsel read the defendants' statements opposing the charges. The only live testimony seen during five days of observation was that of one or two character witnesses who were called by some of the defendants. Out of 67 persons accused, 63 were found guilty and four were acquitted. One observer concluded that by normal accepted standards the defendants did not have their day in court. Another distinguished observer of the same trials said of them:

"The five trials I witnessed under the authority of the military government were lawless charades ... Posted outside the courtroom ... was a rain-spotted carbon copy of a typed memo saying no attorney shall challenge the jurisdiction of the court or the procedures it uses. A lawyer who dared to question whether his client had been tortured was banned from further practice there, among other penalties. The fiscal, or prosecutor, presented his entire case by reading from the indictment and witness statements, nearly all by defendants and their co-defendants. All were elicited under circumstances so inherently coercive, whatever the techniques employed, as to make them questionable by any standard. No witness testified. No prosecution witness was present to be challenged by cross-examination. No defendant presented a single witness in his defence or spoke a word himself in 'open' court. While the trials were called open, no family was permitted to be present and whatever the reasons, the room was virtually empty, except for one morning, when a first-year law class from the University of Chile attended a single trial ... The serious offences charged, treason and sedition, for which death was demanded for some, could not be applied by any stretch of logic or twist of legal reasoning to the facts alleged, which uniformly referred to activity prior to 11 September 1973, nor support jurisdiction in a military court at a later date. Thus the statute itself could not support the prosecution, even if the court had jurisdiction and the application of law was not ex post facto."

115. Restrictions placed on the jurisdiction of the normal judiciary organs of the State, the summary procedures applied by the special courts, interference of the executive in the composition of the judiciary, and the position taken so far by the senior magistrates of the country as to their own competence, put into question the maintenance of the integrity of the judiciary and of its independence. The nature and the scope of the jurisdiction of the special military tribunals were briefly described earlier. The Constitution and the laws of Chile provide strict conditions under which judges may be removed. These were made more flexible by decree-laws Nos. 169 and 170 and there are several instances of judges having been subjected to disciplinary measures, transferred or completely removed from the exercise of the functions to which they were appointed, mostly for political reasons. The Supreme Court of Chile, which had a long tradition of defence of fundamental freedoms and human rights and which has the power under the Constitution to supervise the functioning of all other jurisdictions, has determined, by a vote of 12 of its members against one, its present President, that it would not exercise that supervision over military courts or seriously examine the appeals for amparo relating to cases involving State security. The decision has been criticized by the highest judicial and spiritual authorities in Chile. In addition, significant restrictions exist on the possibility for attorneys to defend their

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clients, and on the functioning of the bar association; a number of attorneys seem to have been arrested and others penalized or threatened for their role in defending persons arbitrarily detained or placed on trial before the special military courts. However, one person stated before the Group that no such restrictions or disability exist.

(d) Concluding observations

116. In the "Declaration of Principles" which it published in March 1974, six months after assuming power, 3/ the Chilean Government stated under a heading "A code of justice respectful of human rights: a guide for the present Government" that "Chile has always lived within a juridical order. The majesty of the law has been an inevitable force in our social development ... legal order has always been the reflection of the deep regard Chileans feel for the spiritual dignity of the human being and for his rights. The heart of Chilean democracy is to be found in that respect for human rights." 4/ The Government declared as a fundamental value of the national spirit "justice and equality before the law. Without privilege or exception all must comply with the law, and all who transgress will receive equal and impartial punishment". 5/

117. However, in September 1973 the régime had clearly announced that its assumption of power and its basic purpose in governing Chile was to reverse a trend which it considered to be contrary to the "historical-cultural identity" of the country and "the permanent values of Chilean nationhood" said to be faced by destruction by certain foreign doctrines. This admittedly resulted in far-reaching operations, in the initial period following the seizure of power, against all elements considered to be responsible for the spread and application of policies related to socialist or marxist ideologies attributed to the previous régime. This "cleansing" of the country of a great number of national and foreign elements was effected against the background of broadly formulated constitutional provisions and additional legislative measures frequently enacted to provide a legal justification for measures already taken. The abundant information before the

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3/ The Declaration was published in Santiago in March 1974 in the form of a brochure in Spanish, English, French and German. Its purpose is explained in the introduction as follows: "The Junta, which came into Government in Chile on September 11 1973 has stated on many occasions that it wishes to inaugurate a new era in our history by planning a creative and stable political system for the future. It will be the task of the new institutions arising in the country to gradually provide a juridical framework for this great collective undertaking to which the nation is committed. For this reason, six months having elapsed since Chile's liberation from Marxism and since the initiation of the new government, it considers the moment opportune to make known its Declaration of Principles. Within this declaration is contained the essence of the philosophy which has inspired the action of the Junta. An understanding, analysis, and diffusion of these principles is of fundamental importance to every Chilean so that he may actively participate in the reconstruction of the nation."

4/ Declaration of Principles of the Chilean Government (Santiago, March 1974) part III, sect. 5.

5/ Ibid., part III, sect. 4 (4).

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Group shows that the repressive steps against political elements active in the former régime of Chile, or having sympathized with it, continue in a systematic and a devastatingly far-reaching manner, which is absolutely contrary to many fundamental concepts of generally recognized human rights.

118. It is the task of the Group, however, to study the actual situation of human rights in Chile, and any progress made in their restoration. The Group found in this connexion that the extension of a régime of exception or emergency over a period of nearly two years, with the main emphasis placed on real or presumed external or internal security considerations, and power based on the armed forces and military security elements, has resulted, in fact, in a situation which has been fraught with considerable room for abuse.

119. In the existing political situation, the adherence to some of the basic principles contained in the Chilean Constitution and international instruments on human rights suffers grievous damage. Such is the case of the principle of equality before the law. The picture obtained by the Ad Hoc Working Group on the basis of testimony and written material from all sources is of a country where some citizens, because they were not supporting or because they were actively opposing the previous régime, accept the state of siege, in spite of its adverse effects on the exercise of traditional human rights, because of the degree of public order which is maintained by the present authorities or the daily economic satisfactions which they can enjoy. While others, because of their actual or alleged involvement in the former régime, or because they are thought by the security agencies to be likely to provide information, may at any time be hounded, arrested, detained or subjected to unlimited degrading or inhuman treatment, including torture. The country appears to be spiritually and actually divided in these two groups, with resulting inequality for the latter group as to retention of access to public office, access to professional and higher education and private employment, and generally the enjoyment of normal life in society.

120. The whole situation is profoundly affected and deeply permeated by the existence and the activities of the Directorate of National Intelligence (DINA), an internal security body which combined previously separately operating security services of the various branches of the armed forces. <sup>6/</sup> According to the information provided to the Group by lawyers and many of its victims, DINA appears to be all-powerful within an area of activity which it itself determines. Unrestricted by any legal provisions, it breaks into private homes, arrests persons in the streets and places of employment, detains and interrogates them without any limitation as to the degree of violence which it uses, frees and rearrests whomever it wishes. Its agents seem at times to follow methodical techniques and at other times just give way to the lowest instincts of brutality, in particular with regard to women prisoners. The DINA seems to be responsible, de facto, only to the head of the State himself; instances were cited by persons who appeared before the Group where interventions or orders of cabinet ministers, including the Minister of the Interior, or senior judges were not heeded by the authorities of DINA. Its action, which in the opinion of the Group is relevant to its investigation, is further described in the following sections of this chapter.

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<sup>6/</sup> See para. 101 above.

It is directly relevant to the present situation of human rights in Chile where, in matters of the security and integrity of the human person, the rule of law, except in its most formal aspect, seems to have disappeared.

121. The Group recognizes that it is the right of any Government to declare a state of emergency. However, under the relevant standards of international law which enunciate rights substantially the same as those guaranteed under the Chilean Constitution, measures derogating from fundamental human rights are permissible only to the extent required by the exigencies of the situation. The Group does not feel that under the terms of its mandate it should comment on the situation which existed at the time of the take-over by the present Government. It is well known, however, that there was no foreign war; persons heard by the Group denied the existence of organized rebel or seditious forces, or forces in the process of being organized. Many of them asserted that in the situation now prevailing in Chile, it would be impossible to organize such forces. References were made by the Government and by some persons appearing before the Group to the existence and discovery of hidden weapons; to the circulation of subversive pamphlets; to the existence of persons seeking access to foreign embassies; to the discovery of a secret hospital; and to foreign propaganda against the Government. The Group had indicated to the representatives of the Government that it would be ready to examine, while visiting Chile, any data in this regard that might be presented to it. However, because of the lack of the promised co-operation by the Government, the Group has had no possibility of hearing representatives of the Government of Chile as to the reasons for the public emergency which "threatens the life of the nation", and as to the measures "strictly required by the exigencies of the situation". There are some references to this question in the answer by the Government of Chile to the report issued by the Inter-American Commission on Human Rights on the status of human rights in Chile. 7/

122. Notwithstanding repeated inquiries, the Ad Hoc Working Group has not found, so far, any serious elements attesting to the existence of danger of a degree of internal disturbance which could have motivated the extensive suspension of constitutional guarantees that has occurred in Chile. The Government has not shown any objective motivation for the existence of an emergency situation at the present time and for the existing restrictions on or suspension of a number of human rights.

123. It is clear to the Ad Hoc Working Group that real restoration of human rights in Chile is not possible until either the state of siege as at present applied is revoked or at least its effects are defined with greater precision as to matters such as arrest, detention, trial, length of imprisonment and the exercise of human rights in general, with a view to ensuring adequate enjoyment of basic human rights.

#### B. Arrest and detention on grounds of security of the State

124. Since the take-over by military government, serious concern has been expressed in various United Nations organs concerning reports from a wide variety of sources

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7/ See E/CN.4/1166/Add.3.

according to which a great number of persons had been arrested and detained in Chile, in conditions which appeared to constitute gross and massive violations of basic human rights and fundamental freedoms. In the telegram sent to the Government of Chile by the Chairman of the Commission on Human Rights as a result of the decision taken by the Commission on 1 March 1974, the Commission expressed "particular concern for the protection of persons whose lives are reported to be in imminent danger" and referred to a number of "outstanding political, social and cultural figures" as being in the greatest danger at that time "for reasons of health or the conditions of their detention". The Commission mentioned, among others, the names of Clodomiro Almeida, Luis Corvalán, Enrique Kirberg, Pedro Felipe Ramirez and Anselmo Sule. The Commission called upon the Government of Chile for the immediate cessation of any kind of violations of human rights and requested information from the Chilean authorities about the fate and welfare of the persons reported to be in dangerous conditions. In its resolution 1873 (LVI) of 17 May 1974, the Economic and Social Council endorsed the concern of the Commission and called upon the Government of Chile to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in Chile "particularly in those cases involving a threat to human life and liberty". In its resolution 8 (XXVII) of 21 August 1974, the Sub-Commission on Prevention of Discrimination and Protection of Minorities expressed the same concern and made a similar urgent appeal to the Government of Chile. The General Assembly in its resolution 3219 (XXIX) of 6 November 1974 noted that, notwithstanding the appeals made to the Government of Chile, gross and massive violations of human rights, such as arbitrary arrest, continued to be reported. The Assembly urged the Chilean authorities "to respect fully the principles of the Universal Declaration of Human Rights and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms, particularly those involving a threat to human life and liberty", and "to release all persons who have been detained without charge or imprisoned solely for political reasons".

125. In this connexion it may be recalled that the Universal Declaration of Human Rights in its article 9 proclaims the principle that no one shall be subjected to arbitrary arrest or detention. The same principle is formulated and elaborated in article 9 of the International Covenant on Civil and Political Rights, which, as already mentioned, has been ratified by Chile. As regards more specifically the question of the release of persons detained without charge or imprisoned solely for political reasons, article 11 of the Universal Declaration and article 11 of the Covenant should be borne in mind. The Standard Minimum Rules for the Treatment of Prisoners, as endorsed by the Economic and Social Council in its resolution 663 C (XXIV) of 31 July 1957, are also relevant to the consideration of the conditions of detention.

126. The Group, having in mind the appeals to the Government of Chile referred to above, and taking into account the above-mentioned principles and standards, has endeavoured to gather, from as many reliable sources as possible, information on developments regarding the question of arrest and detention since 11 September 1973, with a view to facilitate a correct assessment of the present situation, in particular as regards the release of persons who were detained without charge and the release of persons who have been imprisoned solely for political reasons. Its interim findings on the subject are summarized in the following paragraphs.

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127. As is well known and acknowledged by all concerned, including the Chilean authorities, the events of 11 September 1973 were followed by a period of acute internal tension. Many persons were killed; many persons disappeared; thousands were arrested. In the situation of acute crisis which prevailed, mass arrests were made by the armed forces with the help of the police. As indicated earlier, these arrests were made essentially on political grounds; a constitutional régime was overthrown by force by a military coup; the latter wished to protect itself against the resistance of partisans of the former. No clear dividing line can be drawn, therefore, between those who were arrested without charge and those who were arrested for political offences. All detainees were political "suspects", or considered positively or potentially dangerous politically. They included not only members of the previous Government but also persons active in political parties, including those of the opposition, labour union leaders, journalists, university professors, students and persons from various walks of life. Some of them were arrested because they happened to be relatives of members of the previous Government. Also arrested were many people who, although not very active in politics, had been known as supporters or sympathizers of the previous Government. Some were arrested without apparent reason, for the purpose of forcibly extracting from them information or confessions, which could be used by the intelligence services for their own purposes and possibly lead to the arrest of "suspects". Some cases were reported of persons having been arrested by mistake.

128. The information received by the Group confirms the lack of recourse to normal legal procedures in these arrests. They were carried out without warrants established by competent authorities. Detainees were not summoned and no formal charges were made against them. Many were called on the radio to present themselves at certain places. Generally speaking, those arrested were not informed, even orally, as to why they had been arrested.

129. The common practice was for arrested persons to be taken to places of detention which had been specifically converted or designed for that purpose, such as the National Stadium of Santiago, the National Stadium of Concepción, the Chile Stadium in Santiago, military academies and barracks, police stations, ordinary prisons, detention centres of Dawson Island, Quiriquina Island, Pisagua, Chacabuco, to mention only a few. The Group has massive information that the arrested persons were often held incommunicado for long periods of time and subjected to repeated and ruthless interrogation, without the right of access to a lawyer. Their families were kept in ignorance of their whereabouts. As will be seen, this was not a matter of house arrest or administrative measures of banishment, both of which are expressly provided for by the Constitution in the event of a state of siege.

130. The physical conditions of detention varied from place to place. But from all accounts they could hardly be considered as fulfilling the conditions of "humanity and respect for the inherent dignity of the human person" laid down by article 10 of the International Covenant on Civil and Political Rights or by article 3 (1) of the Geneva Conventions. Apart from being subjected to all sorts of brutalities, intimidation and ill-treatment, on which details will be given in section D below, detainees were held in overcrowded places lacking basic facilities; they were

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denied adequate food and, in places like Dawson Island - situated near the Antarctic - exposed to unbearably cold winds, though they were without adequate clothing, blankets, etc. They were forced to work, often in conditions of extreme hardship, and they were psychologically terrorized by uncertainty as to their future and the fate of their relatives. Although their health was in a number of instances seriously affected, they were not afforded proper medical care. Some relatively elderly detainees were subject to unwarrantable and particularly distressing treatment.

131. It appears from a variety of sources, which have not been strictly verified, that at least some 40,000 to 50,000 Chileans were arrested and detained in such conditions after the assumption of power by the military government on 11 September 1973. Many of the persons arrested were subsequently released but new arrests continued to be made under the state of siege provisions, although on a much smaller scale.

132. In the early months following the take-over of power by the present Government, arrests were usually carried out by the armed forces and the ordinary police. Subsequently, this activity was carried out by the intelligence services of the army (Servicio de Inteligencia Militar, SIM), the navy (Servicio de Inteligencia Naval, SIN), the air force (Servicio de Inteligencia de la Fuerza Aérea, SIFA), and the carabineros (militarized police, Servicio de Inteligencia de Carabineros, SICAR), as well as by the "Servicio de Investigaciones" (Bureau of Investigation of the Civil Police) and the Dirección de Inteligencia Nacional (DINA). The intelligence services that existed in September 1973 were progressively and systematically organized for the sole purpose of tracing and eliminating political opponents of the military régime. At first, each service acted independently; SIM used mainly military barracks as places of detention, among them Tacua y Buin; Cerro Chena de San Bernardo; Tejas Verdes (San Antonio), in the coastal area of the province of Santiago. SIN, which after the military take-over suppressed mutinies of naval officers in Valparaiso and Talcahuano used for the purpose of detention, the Academia de Guerra Naval, the Cuartel Silva Palma, the naval base of Talcahuano, and Quiriquina Island. SIFA, which developed its activities in 1974, used as detention centres the air bases of Colina and of "El Bosque", the Academia de Guerra Aérea and Casa de Maruri 650. SICAR used police stations to detain persons who were later handed over to DINA. However, when DINA began its activities, measures were taken to co-ordinate the operations of the various intelligence services.

133. As explained in chapter III, DINA was formally established in June 1974 by decree-law No. 521. It was given over-all responsibility for co-ordinating and supervising intelligence activities of the other services and bringing them under the direct supervision of the President of the Republic. The DINA is empowered to arrest anyone at any time at its discretion. The DINA is accountable to none except the President. Information received by the Group on the methods used by DINA shows that arrests are made without even the semblance of formalities. Frequently, DINA agents do not even identify themselves to the person being arrested; often they are in civilian clothes. The persons apprehended are not informed of charges against them. The persons arrested by DINA are taken to interrogation centres, where they are subjected to beatings, systematic torture methods, or "improvised" measures of degradation and brutality. Section D of this chapter deals further with the findings of the Group in this regard.

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134. The activities of DINA appear to be aimed not only at obtaining information but at spreading terror among the persons suspected of being opposed to the present Government or of having been sympathizers of the previous régime. DINA agents are said to systematically and surreptitiously establish relationships with certain workers, students, intellectuals etc. for the purpose of identifying opponents to the régime. As was the case in similar situations in other countries, denunciation by private persons, based on personal animosities, are only too frequent. Some persons who had, with sinister motives, infiltrated political organizations of the former régime play a role in identifying that régime's sympathizers. The DINA has at its disposal a large budget and extensive facilities. It has been said by many who appeared before the Group that its powers surpassed in many cases the authority of the ministers themselves. They say, in fact, that DINA is a super-State within Chile. As stated earlier, there are reported instances where orders from the Government to improve the conditions of prisoners or to release them because there was no reason to keep them in detention were ignored by DINA with complete impunity. The DINA is looked upon as the symbol of terror that sprawls on the streets of Chile like a haunting nightmare. A knock at the door, unexpectedly: the people from DINA enter the house, ransack it, terrorize the inmates, and without any warrant of arrest walk away with any inmate they like.

135. According to the evidence received by the Group, the chaotic and inhuman brutality which characterized indiscriminate arrests in the immediate period following the coup of September 1973 has been replaced recently by more systematic methods directed against selected individuals. Nevertheless, it is clear that people continue to be arrested without charge and submitted to abusive interrogation and degrading ill-treatment. If and when they are released, they continue to live in fear of being arrested again without cause and of having to endure once again the same inferno.

136. As regards present conditions of detention, information available to the Group tends to show that in spite of some sporadic improvements, the situation remains unsatisfactory in many respects. The Group was informed, for instance, that in the detention centre of Tres Alamos, living conditions remain very poor and detrimental to the health of the detainees. Many of the latter are sick persons, whose illness has been aggravated by the inhuman physical and psychological treatment they have suffered. It is alleged that they have been deprived of or denied proper medical attention. Reference is also made to the strict rules and regulations governing the camp and the severe punishment which results from any breach of the rules. The Group was informed that in June 1975, before its scheduled visit to Chile, some prisoners who were then in very serious physical condition were released. Certain women prisoners, including pregnant women, were transferred to Pirque, which became temporarily a detention centre for women prisoners, where the conditions were said to be somewhat better.

137. As to the number of persons still being detained, official sources indicated in March 1975 that of the 41,759 persons arrested since September 1973, 36,605 had been released. In May 1975, the Chilean Government declared that it was willing to release all political prisoners detained under the state of siege "except for cases of major gravity". At the end of July 1975, the Minister of the Interior

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announced that there were 4,168 persons still under arrest in the country under the state of siege provisions. Of those, 1,938 were on trial and another 2,177 had been sentenced. At a meeting with journalists the Minister said that the Committee for Pardons had approved 171 requests for prison sentences to be replaced by banishment.

#### The problem of "disappeared" persons

138. A very serious problem arises from the fact that since 11 September 1973 a number of persons have "disappeared" after their arrest. Their whereabouts have remained unknown, in spite of the attempts made, either by their relatives individually or by organizations acting on their behalf, to obtain information from the authorities, in particular through SENDET (the National Executive Secretariat for Prisoners), a governmental agency specifically responsible for centralizing information and for collecting statistical data concerning political prisoners. As reported earlier, in many cases appeals for amparo have been filed, but without effect. In other cases, persons were reportedly reluctant even to inquire about the fate of "disappeared" relatives for fear of harassment or arrest. Frequently, the authorities refused to acknowledge that the persons reported as "disappeared" had ever been arrested, a safe but crude way of escaping the possibility of having to face grievous charges at some later date.

139. There is evidence that many "disappeared" persons are actually detained incommunicado or have been eliminated. Specific instances of disappearances were brought to the notice of the Group.

140. The case of David Silverman Guruvich may serve as an illustration. Two weeks after the military take-over of 11 September 1973, Mr. Silverman, a 35-year-old civil engineer, was charged with offences under the law on the security of the State and the law on weapons control, and sentenced by the Military Tribunal of Calama to a 13-year prison term. According to the information available to the Group, the trial, which was held in camera, amounted to a denial of all the essential legal rights necessary for his defence.

141. The Group was further informed of the following developments. On 29 September 1973 Mr. Silverman was transferred to Santiago. On 4 October 1973 he was taken from the prison by an Air Force officer. For more than 20 days his place of detention was kept secret. He was severely tortured and later returned to the penitentiary. On 4 October 1974 his place of detention was changed again: he was taken from the penitentiary by a military unit of, apparently, Air Force personnel (an officer and five soldiers). His whereabouts since that time are unknown. All attempts to locate Mr. Silverman through administrative as well as judicial channels (including recourse to amparo) have been unsuccessful. However, on the last occasion when Silverman was removed from his place of detention his prison warden was able to identify the responsible officer as Lieutenant Olejando Quinteros. The prison warden also requested a written order of transfer. The order was signed by Colonel Orlando Ibanes. A certificate was drafted confirming the prisoner's transfer and the action was said to have been recorded in the prison registry book. The warden also made a telephone call to

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the Ministry of Defence requesting confirmation of the order. This confirmation was given, presumably by one Colonel Hugo Hinrichsen, Director-General of Prisons.

142. When Silverman's wife, Mariene Ibarzua de Silverman, began to inquire as to her husband's fate she was told by an official of the Ministry of Justice that Mr. Silverman was in the hands of a security service - not identified - but that after a few days he would be returned to the penitentiary. Mrs. Silverman was told that two possibilities existed which might explain her husband's disappearance: either he was still being held by security service, or he had escaped. Officials from Catholic and Jewish groups interceded on Silverman's behalf. The explanations given to them have ranged from statements that Silverman would return to prison to statements that he had possibly escaped abroad with money stolen from the State enterprise for which he worked.

143. On 30 October 1974 lawyers for Silverman met with Supreme Court Justice José María Eyzaguirre to explain their case. President Pinochet later received a Supreme Court delegation to discuss the problem. President Pinochet repeated the explanation that Silverman had absconded with money, and that he had been a member of an extremist organization.

144. Another such case reported was that of Guillermo Beausire Alonso, son of an Englishman. He was going to England, where he had a contract to work. He had a British passport. On 2 November 1974, he went to the Santiago airport to board a plane. He went through all the normal formalities and boarded the plane of a Chilean airline bound for Montevideo. Just then someone saw him. It is alleged that he was taken from the plane at Montevideo airport and sent back to Santiago.

145. His family was happy at the thought that he was on his way to England. His mother, Sra. Ines de Beausire, was arrested the same day that he was leaving for Montevideo, i.e. on 2 November 1974. While being interrogated, she heard the voice of her son in the same interrogation centre. She later received confirmation that he had been brought back and arrested by DINA. Further, one friend of the Beausire family was taken to the interrogation centre, known as Villa Grimaldi, on 2 January 1975. There by chance he saw Guillermo Beausire Alonso and was able to speak to him.

146. The Chilean authorities constantly deny that they are holding this person in detention. The Group understands that the British Government has approached the Government of Chile in the case of Guillermo Beausire Alonso as he is holding a British passport.

147. The Group wishes to bring to the notice of the General Assembly the cases of David Silverman and Guillermo Beausire Alonso as two specific hard cases, and feels that the General Assembly may perhaps wish to give special consideration to these two cases as well as to the other cases mentioned in the present report.

148. Various lists of "disappeared" persons have been made available to the Group

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from different sources. 7/ Some of them included testimony of former detainees who, at one time or another, in different places of detention had affirmed that they had had direct contact with persons said to have "disappeared" or who stated that they were familiar with their status as detainees. The information received was to the effect that various reasons could be advanced for these alleged disappearances, among others the determination on the part of the authorities to hide the fact that a "disappeared person" had died or was in critical physical condition as a result of torture or inhuman treatment while in the hands of the security services or while in detention. Another reason could be a decision to extend the period of detention incommunicado, either to use the detainees as hostages for relatives whom the authorities could not find or so that the detainees would be forced to co-operate later with DINA agents.

149. During its 18-29 August session, the Group was informed of reports published in the press with respect to the fate of 119 "disappeared" persons. 8/ In mid July the Chilean press reported that an obscure Buenos Aires magazine called Lea had published the names of 60 members of the Movement of the Revolutionary Left (MIR) who had allegedly killed each other in a "power struggle" among leftist guerrillas outside Chile, namely in Argentina, Colombia, Venezuela, Panama, Mexico and France. On 24 July a Chilean newspaper quoted a similar story from a daily called O Dia, published in southern Brazil, which had printed the names of another 59 members of MIR who were said to have been killed in clashes with the Argentine security forces in the remote province of Salta. These reports immediately gave rise to serious doubts, in the wake of which followed grave concern as to whether it was fact or fiction. It appeared that only one issue of Lea had ever been published and that the very existence of a newspaper called O Dia was unknown to the Brazilian Press Association. It seemed unlikely that the full names of 119 Chileans, correctly spelled, could have been obtained by two publications hardly heard of before. On the other hand, it was claimed by a reliable religious organization in Chile that all the persons on both lists had been reported by their families as having been arrested or as having "disappeared" between March 1974 and February 1975. It was also claimed by the same source that in 77 of the 119 cases witnesses had sworn on oath that they had been present when the arrests took place. In four cases Government officials were said to have subsequently acknowledged the fact of arrest.

150. The Supreme Court was requested by a former President of the Republic and by a religious organization to order an investigation. The Supreme Court rejected these applications. Fears have been expressed that some of the persons on the lists may have been assassinated in Chile by the security services.

151. President Pinochet, in a public statement made on 20 August 1975, said that he would order a check into the sources of the two above-mentioned press reports.

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8/ See annex XVII.

Situation of the persons mentioned in the telegram sent by the Commission on Human Rights on 1 March 1974

152. Two of the persons mentioned in the telegram, Mr. Clodomiro Almeida and Mr. Anselmo Sule, were released and expelled from the country. Mr. Sule was later deprived of his Chilean nationality. The other three, Mr. Luis Corvalán, Mr. Enrique Kirberg and Mr. Pedro Felipe Ramirez, are still in detention.

153. As regards Mr. Luis Corvalán, a prominent political figure and Secretary-General of the Communist Party, it may be recalled that he was detained for 40 days at the Military Academy in Santiago before being sent to Dawson Island. He was held incommunicado for 60 days and forced to do very strenuous work. Since then, like many others, he has gone from prison to prison. Although he was originally accused of the most serious crimes, no specific legal charge was ever made against him and he was not brought to trial. At the end of July 1975 he was transferred to the naval hospital in Valparaiso to undergo an appendix operation, then returned to the Ritoque prison. Reports concerning his present state of health still give rise to serious concern. A priest who had flown from Santiago to appear before the Group in August 1975 in order to make a statement, stated that he fully associated himself with the demand for the immediate release of Senator Corvalán, as he was an important Chilean personality.

154. In the case of Professor Enrique Kirberg, former Rector of the State Polytechnic University of Santiago, who has been imprisoned since September 1973, the Group was informed that he had been sentenced on 12 June 1975 to 18 months' imprisonment for "tax fraud". Since his detention pending trial covered this penalty, Professor Kirberg should by now have been released, but this has not yet been done. Professor Kirberg has received offers from leading universities in other countries, which have appealed to the Group to secure his immediate release so as to enable him to resume his professorial functions outside Chile.

155. The Group wishes to reiterate the concern of the Commission on Human Rights over the situation of Luis Corvalán, Enrique Kirberg and Pedro Felipe Ramirez; it hopes that the General Assembly will be able to consider appropriate action which could be taken in this case and in other cases mentioned in this report.

C. The question of freedom of movement: the right to leave the country and to return to it

156. The international standards relevant to the question of freedom of movement are to be found in article 13 of the Universal Declaration of Human Rights and in article 12 of the International Covenant on Civil and Political Rights, ratified by Chile on 10 February 1972. The present situation in Chile reveals that the problems concerning freedom of movement relate essentially to the question of the enjoyment of the right to residence within the borders of one's own country. The right to residence, however, relates to (a) the right to leave one's country, and (b) the right to return to it.

(a) The right to leave the country

157. It has been reported that about 13,000 foreigners left the country as a result of the coup d'état of 11 September 1973. It is also reliably estimated that 20,000 Chileans have left the country permanently since that date. Of these the vast majority are in other Latin American countries: between 10,000 and 12,000 are in Argentina, about 3,000 in Peru and about 3,000 in other Latin American countries. The remaining 2,000 to 4,000 are mostly in Europe, Canada or Australia.

(i) The question of the granting of safe conducts to persons who received diplomatic asylum in embassies

158. As a result of the coup d'état, a large number of Chileans and foreigners sought the protection of foreign embassies and their assistance in leaving the country. Many embassies, mainly of American and European countries, accepted these demands on humanitarian grounds, at times at great practical inconvenience. The Government started slowly the process of delivery of safe conducts, without which a refugee could not obtain an exit visa. Delivery of such a safe conduct was dependent on the adoption by the Government of a resolution on each individual stating that he was free to leave the country.

159. On 10 December 1973 the Chilean Foreign Minister sent a circular letter to European embassies in Santiago notifying them that as from 11 December 1973 they would no longer be able to request courtesy safe conducts out of the country for people taking refuge; these people would have to remain in the embassies. Police guards on foreign embassies were greatly strengthened. Under the Caracas Convention on Diplomatic Asylum, signed on 28 March 1954, most Latin American embassies enjoy the right to safe conduct for "persons being sought for political reasons or for political offences". The legal position was, therefore, that only in the case of embassies or countries parties to the Caracas Convention does the Government of Chile recognize the right of diplomatic asylum and its obligation to deliver safe conducts. In practice, however, several hundred persons who resided in the embassies of other countries have been granted safe conducts to leave Chile after direct negotiations between the Government concerned and the Chilean Government.

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160. The report on the status of human rights in Chile of the Organization of American States indicates that the Government of Chile granted 4,949 safe conducts for aliens from 11 September 1973 to mid July 1974. 9/ This number of 4,949 is broken down into 2,872 regular safe conducts, 627 expulsion safe conducts and 1,450 courtesy safe conducts for members of families (persons receiving expulsion safe conducts are prohibited from returning to reside in Chile). The report further mentions that the Chilean Ministry of Foreign Affairs had granted 2,945 safe conducts for Chileans who had taken refuge in diplomatic missions in Santiago and 547 courtesy safe conducts for members of the families of those persons. The report notes that the Government of Chile had granted safe conducts to all foreigners and almost all Chileans who had taken refuge in the diplomatic missions in Santiago.

161. The latest information available to the Ad Hoc Working Group confirms that the Government of Chile continues to deliver safe conducts to persons who received asylum in Latin American as well as in European embassies. It was reported that on 31 July 1975, only 34 persons were still enjoying the right of asylum in foreign embassies.

(ii) The question of refugees

162. On 17 September 1973, the Government declared that foreigners who had interfered in the internal affairs of Chile, in particular, extremists who had entered the country in the past few years and who had been the instigators of violence, would be treated with all the rigours of the law according to the crime they had committed.

163. On 13 September 1973, the United Nations High Commissioner for Refugees had appealed to the Minister of Foreign Affairs of Chile to ensure that refugees were adequately protected and on no account forcibly sent back to their countries of origin, where they feared persecution, in view of the obligations assumed by Chile under the 1951 Convention and the 1967 Protocol relating to the status of refugees. In reply to this appeal, the High Commissioner was informed that in case of expulsions, there was no intention whatsoever of returning refugees to their country of origin, leaving open to such refugees the choice of the place of their destination.

164. On 3 October 1973, the Government of Chile issued decree No. 1308 establishing a Comité Nacional para la Ayuda a los Refugiados (National Committee for Aid to Refugees). Since a person cannot be a "refugee" in his own country, UNHCR in Chile has been able to help only non-Chileans (a diminishing proportion of the over-all number of cases) and "family reunion" cases (where dependents sought to join Chileans who have obtained refuge abroad). In Lima and Buenos Aires, however, representatives of UNHCR co-ordinate assistance to Chilean refugees and help them find countries willing to accept them.

165. In January 1974, 2,000 refugees had already left Chile and by mid February of that year the end of the emergency operation seemed very near. However, the UNHCR

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9/ E/CN.4/1166/Add.3, p. 158.

mission had to deal with an ever increasing number of dependants of refugees who had been resettled abroad or of Chileans who had been granted asylum in another country and had therefore also become refugees under the mandate of UNHCR.

166. By the end of April 1975, the number of applicants who wished to rejoin refugee members of their family had reached 1,500 and the total was rising at an accelerating rate. By mid 1975 the flow from Chile to Argentina and Peru was still continuing, and places of permanent asylum elsewhere must be sought. On 30 June 1975, approximately 8,500 refugees from Chile had been resettled under the auspices of UNHCR. The persons directly resettled from Chile can be divided into approximately 2,200 refugees under the mandate of UNHCR and approximately 2,000 "family reunion" cases.

167. According to the most recent figures published by the Intergovernmental Committee for European Migration (ICEM) on 4 August 1975, 11,863 persons were resettled under the ICEM Special Programme for Resettlement from Chile to several countries between 6 October 1973 and 31 July 1975. The countries which have taken most refugees are: Sweden (1,381), Romania (1,292), Federal Republic of Germany (930), United Kingdom (920) and France (859). Among the Latin American countries, Mexico has accepted 614, Argentina 581 and Cuba 411. The ICEM figures, however, do not include refugees who paid their own fares and arranged their travel.

168. It should be recognized that in most instances the Government of Chile co-operated with the Office of the United Nations High Commissioner for Refugees. More than 40 Governments, which have accepted a considerable number of refugees from Chile for permanent settlement in their country, with the helpful intervention of ICEM, are to be commended for their efforts. The Group felt, however, that in a number of cases the national procedures of receiving countries were slow and wishes to seize this opportunity of bringing to the attention of the Governments concerned the importance which the granting of a visa may have for the safety and well-being of the refugee in the conditions prevailing in Chile.

169. The Ad Hoc Working Group was very much impressed by the high educational and professional quality of persons who had left the country voluntarily, or who were compelled to do so, and considers that most of these refugees will constitute an asset to the intellectual, economic and cultural life of the countries which receive them. On the other hand, who can watch with indifference a national tragedy like a severe brain drain, which can only impoverish the intellectual resources of the country of origin?

(b) The right to return to one's country

170. As indicated above, 10/ the Penal Code of Chile does provide, under the terms "extrañamiento" and "destierro", for expulsion from the territory of the Republic. This punishment can only be applied after a regular trial, in the cases prescribed

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10/ See para. 78 above.

by law, and for a specified period of time. Under article 121 of the Penal Code, 11/ the case of persons engaged in an armed uprising against the legally constituted Government, for the purpose of promoting a civil war, of changing the Constitution of the State, or of depriving the President of the Republic of his functions, is one of the cases in which this penalty is to be applied. It has not been established that the persons who have been expelled had actually committed offences warranting expulsion. Moreover, the decisions to condemn those persons to extrañamiento were not taken in accordance with a regular procedure.

171. Law No. 3446 of 12 December 1918 provides that undesirable foreigners are prohibited from entering and from residing in the country. Moreover, entrance into the country is prohibited to foreigners who teach or practise violence in order to alter the political or social order. The foreigner affected by a decree of expulsion may appeal to the Supreme Court within a period of five days following the day of publication of the decree in the Diario Oficial. No such right is provided for in decree-laws No. 81 of 11 October 1973 and No. 604 of 9 August 1974, which at present regulate the expulsion of Chileans as well as of foreigners. 12/ To the knowledge of the Ad Hoc Working Group, the Supreme Court has not ruled on any case concerning the expulsion of foreigners, who have often been obliged to leave the country without being notified of the expulsion decree.

172. In a speech delivered on 11 September 1974, President Pinochet declared that he was ready to free a certain number of persons, Chileans or non-Chileans, detained on the grounds of state of emergency on the condition that they agreed to leave the country. President Pinochet added that, if they would not make use of that right, they would be subject to the laws of the state of siege and the outcome of appropriate trials. These detainees were thus given the alternative of leaving the country definitely or of remaining indefinitely in prison. This statement by President Pinochet does not reflect the constitutional and other legal provisions governing the matter: a citizen may not be compelled to choose between expulsion and imprisonment. The Ad Hoc Working Group notes that, in any event, no Chilean national may be deprived of his nationality unless by a special decree. For this reason, a Chilean passport issued solely to authorize exit from Chile is clearly contrary to Chilean law and has no bearing on the nationality of the individual concerned, who should therefore be entitled to return to his country at any time.

173. In a first phase, a list was drawn up of 100 persons detained under the state of siege but not yet tried or sentenced. Lists were established with the co-operation of organizations such as the National Committee for Aid to Refugees,

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11/ Article 121 of the Penal Code: "Any person who rises in arms against the lawfully constituted Government for the purpose of promoting civil war, changing the Constitution of the State or its form of government, depriving of his functions the President or Acting President of the Republic or a member of the National Congress or of a higher court of justice or preventing the same from carrying out his duties shall be liable to the penalty of long-term rigorous imprisonment with forced labour, or of long-term banishment, or of long-term exile, in any degree."

12/ See para. 100 above.

the Intergovernmental Committee for European Migration and the International Committee of the Red Cross. As a condition to their participation, officials of ICRC ask the persons on the list whether or not they accept freely to leave the country. On 31 January 1975 the Minister of the Interior declared that 70 out of the 100 persons on the first list had left the country. A further list was to be made up of all the other detainees who could leave the country.

174. In the framework of "a special expulsion programme to Mexico" the President of Chile announced on 31 December 1974 that the Government of Mexico had accepted to receive 200 persons. This list of 200 persons published on 10 January 1975. It appears that a number of persons on the list were not consulted as to whether they accepted to leave for Mexico. On 31 January 1975 the Government of Chile declared that 43 persons on this list had refused to leave the country.

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175. On 31 January 1975, ICEM submitted to the Ministry of the Interior a list of 371 persons who had been sentenced and were in prison and whose immigration to another country had been approved by the authorities of that country. On 9 May 1975, ICEM reached an agreement with the authorities of Chile upon a widening of the ICEM programme for refugees, to allow ICEM also to assist persons who were serving a prison term after sentence, whereas until then ICEM had only been able to assist those people who were detained but had not been sentenced. The agreement referred to set up a system under which persons who have been tried and sentenced for political crimes may apply to leave the country and will be released for this purpose, if a resettlement opportunity is available for them.

176. No numbers are specified in the agreement and, in fact, it states that the results will depend upon the acceptance of the governments of the countries of resettlement and on the financial resources made available by governments for this programme. There is no particular time schedule foreseen or planned. Since 6 December 1974, a total of 326 persons were apparently released from prison and were moved from Chile by ICEM, together with 270 dependants. On 31 July 1975, , 671 prisoners and 1,013 family members were being processed for departure by ICEM under this prison release programme.

177. The foregoing shows that expulsion measures are applied to several categories of persons and in a large variety of conditions. Often, expulsion is effected with regard to persons who are detained but not yet sentenced. The same measures are applied to persons who received asylum and to whom expulsion safe conducts were delivered. Those persons may leave the embassy in which they received asylum for a foreign country, but they may not return to Chile. More recently, persons who had been previously sentenced for political crimes could leave the country, but without any possibility of returning to Chile. It was also reported that the Chilean Government used the mechanism of expulsion for people who had not even been arrested.

178. The procedural conditions in which these expulsion measures are taken are far from satisfactory in the light of generally accepted human rights standards and of the Chilean legal order itself. In practically all the reported cases the persons who were subjected to expulsion did not enjoy any judicial safeguard, the decision

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was not taken by a judicial authority, the existence of a specific offence was not previously established, and there was no contradictory procedure. In short, there was not even the semblance of a fair trial. The expulsion decisions are not open to any form of appeal to courts of law; no time-limit is specified as to duration of the measure of expulsion nor as to when the expelled person can return to his country. As far as the place of destination is concerned, there is no real possibility of choice.

179. Moreover, when the offer to be released is made to a political prisoner on condition that he leaves the national territory, the choice is cruelly limited. He can only choose between exile and continued incarceration, though the great majority of those concerned are in custody without being charged with any offence. Quite often, the expulsion decision is implemented in a very sudden and brusque manner without any time for preparation, for consultation with relatives or for family get-togethers. In some cases, arrest and expulsion have taken place on the same day. Evidence was given in recent cases of the threat of expulsion as a means of intimidation and repression. People are threatened with deportation from the country if they continue to criticize the present régime.

180. The Ad Hoc Working Group heard the testimony of several Chileans expelled from their country in 1974 and 1975. In this respect, the attention of the Group has been drawn to the irony of a situation in which the penalty of extrañamiento, which is provided for in article 121 of the Penal Code for people who try to overthrow the legally constituted Government, is applied to persons because they had supported the previous legally constituted Government of Chile. They said it was not they who had resorted to an uprising to overthrow a legally constituted Government, but others.

181. Sometimes ordinary passports are delivered. In many cases, people receive a passport which says "Valido solo para salir del pais" (Valid only to leave the country). The passports are silent regarding re-entry into Chile. Several passports bearing this mention were shown to the Ad Hoc Working Group. Therefore, when the validity of the passport expires, and if the passport is not renewed, the exiles find themselves in an ambiguous juridical situation, being considered neither Chilean nationals nor stateless persons.

182. For criticizing the present régime, a Chilean cannot only be expelled from his own country, but once abroad he may still be subjected to the loss of his nationality "for seriously attempting from the exterior a crime against the essential interests of the State during a situation of exception. 12/ By its very wording, this article clearly intends to punish acts contrary to the policies of the present Government, which extends the "situation of exception" continuously, and the people of Chile wonder when the long bleak night will end, and yield to the sunny dawn of normalcy and constitutionalism. It appears to the Ad Hoc Working Group that the Government of Chile uses the deprivation of nationality as a means of additional pressure on Chileans who have left the country either voluntarily or compulsorily. Some cases of deprivation of nationality were reported to the Ad Hoc Working Group.

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183. It appeared, therefore, that while the Government was not ungenerous in accepting that Chileans and foreigners should leave Chile, the expulsion and deportation of many was often being used to eliminate from Chilean life persons who, in the view of the authorities, might potentially endanger the existence and perpetuation of the present régime. Little formality is used in this field and police considerations appear to be the determinant and deciding factors. Some individuals concerned expressed satisfaction at having escaped from the daily dangers of existence in Chile and the lurking shadow of terror symbolized by DINA, and manifested their gratitude to the governments that had permitted their establishment and provided them with the opportunity to work. Some others resented the obligation of living away from their native land, to which they are so attached, and their immediate family members to whom bonds of blood hold them so near and dear. The impact on family life is, of course, far-reaching. It was reported to the Group that no less than 200,000 families in Chile have been affected by separation, because of exile abroad, detention in Chile, or disappearance. The family unit, in such cases, they asserted, was in process of disintegration in utter disregard of the relevant international conventions to which Chile has acceded.

D. Question of torture, cruel and inhuman treatment, including threats to human life and security of the person, and the alleged existence of "concentration camps"

184. The attention of the Commission on Human Rights has been specially drawn by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and by the General Assembly to the torture and other cruel, inhuman or degrading punishment and treatment reported to be practised in Chile. The Sub-Commission expressed its concern in its resolution 8 (XXVII). This text was endorsed and adopted by the General Assembly, which had itself made its views clearly known in its resolution 3059 (XXVIII), in which it expressly rejected any form of torture and other cruel, inhuman or degrading treatment or punishment. The General Assembly, in its resolution 3219 (XXIX), urged the Chilean authorities to respect fully the relevant principles of the Universal Declaration of Human Rights, particularly those relating to safeguards against threats to human life and liberty.

185. Under the terms of article 3 of the Universal Declaration, "everyone has the right to life, liberty and security of person". The same principle is formulated in article 6, paragraph 1, and article 9, paragraph 1, of the International Covenant on Civil and Political Rights. The principle that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" is set out in article 5 of the Universal Declaration and article 7 of the Covenant. Moreover, the Standard Minimum Rules for the Treatment of Prisoners provide in article 31 that "corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences".

186. Many of the persons heard by the Group testified to the existence of ill-treatment and torture of persons under detention. Several stated that they

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themselves had been the victims of torture or ill-treatment. <sup>13/</sup> Other persons testified that they had seen other detainees being tortured; others still testified to their conviction that certain persons had been tortured, basing themselves on strong indications of this, as for example, the physical state of the alleged victims and screams heard in the places of detention. Several persons said that they had been tortured only a short time prior to their appearance before the Group; this confirmed the Group in its belief that it is necessary to continue its investigations to verify these allegations.

187. The Group also heard a few persons who denied any knowledge of the existence of torture. These persons expressed their conviction that detainees enjoyed satisfactory protection and that whenever any abuses were alleged, these were quickly checked out, and, if necessary, remedial action was taken. None of these persons, however, was able to give precise information on any such investigation or remedial action, if any. Some of the persons who gave a reassuring picture of the situation in Chile maintained that they were wholly unaware of certain torture centres that are well known and that are systematically mentioned by alleged torture victims.

188. Although most of the places of detention are located in Santiago, the Group received evidence showing that ill-treatment took place in other parts of Chile. The persons who appeared before the Group made the distinction between detention centres, where several hundred persons - most of whom had been arbitrarily arrested - are detained, and places where persons are taken for interrogation. The latter were mentioned as being predominantly used for obtaining information, or for intimidation by methods of systematized torture, although some persons testified that torture also occurred in detention centres. Certain detention centres were in operation immediately after 11 September 1973, whereas others were established later. The following locations were mentioned as detention centres: (1) Pisagua (in the province of Tarapaca); (2) Chacabuco (in the desert of Atacama); (3) Tres Alamos (in Santiago, Calles Vicuna Mackenna y Departamental, the former Seminario de los Oblatos de María Inmaculada), and Cuatro Alamos, commonly described as the place where detainees are held incommunicado ("Pabellon de Incomunicados"); (4) Melinka, also called Puchuncavi (in the province of Valparaíso; a former popular summer resort); (5) Ritoque (in the province of Valparaíso; also a former popular summer resort); (6) Dawson Island (in the province of Magallanes); (7) Quiriquina Island (facing "Bahía de Talcahuano", province of Concepción); (8) Academia de Guerra Aérea (AGA); (9) "Las Melosas"; (10) Pírque (for women); (11) Carcel Correccional de Mujeres (for women). Some of these centres are reported to have since been closed down.

189. The evidence shows that prisoners are periodically taken from the detention centres to places where they are interrogated by methods amounting to torture. The location of these interrogation centres, commonly referred to as "torture centres", is often shifted to minimize the possibility of their being traced. It is, therefore, impossible to determine if these centres are still being used or if new ones have been established. The following places have been referred to as having been used at one time or another: (1) Calle Londres 42 (former Socialist Party headquarters); (2) Tejas Verdes (120 kilometres west of Santiago);

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<sup>13/</sup> Wherever the word "torture" appears, it includes ill-treatment.

(3) José Domingo Canas 1367; (4) José Domingo Canas 1347 (at the corner of Calle República de Israel); (5) Villa Grimaldi, in Calle José Arrieta (at one time a discothèque "El Paraíso"); (6) Villa Macul, in Calle Irán, Punta de Rieles; (7) Los Torres de San Borja; (8) Colonia Dignidad (in Ciudad de Parral, province of Linares); (9) Calle Santa Lucía 124 (former MAPU Party headquarters), used for recuperation after particularly severe torture; (10) the naval base of Talcahuano; (11) Fuerte Borgono (in Talcahuano, Cerro Las Canchas). Villa Grimaldi was mentioned often in this respect and by many persons.

190. Detention and interrogation are essentially the responsibility of the intelligence agencies pertaining to the three armed services and the carabineros, of the civil police and of the Dirección de Inteligencia Nacional (DINA). These agencies are described in section B above. Among these intelligence agencies, the Servicio de Inteligencia de la Fuerza Aérea was said to be especially known for its refined techniques in torturing political detainees. The DINA, it was reported, has houses and centres where it carries out torture on detainees. Practically all testimony of torture shows DINA as being the agency primarily responsible in the present situation for the degrading and inhuman treatment of persons under detention.

191. The evidence before the Group has further shown that torture mostly takes place in the period immediately following arrest, before any legal safeguards against arbitrary arrest, such as amparo, can be invoked. In this context it may be recalled that, as explained in chapter III, legislation has been promulgated in Chile prolonging the permissible period of preventive detention from 48 hours to five days, for offences within the competence of military courts. In practice, however, according to the evidence, persons are held incommunicado and under interrogation for longer periods, often running into months. It is during these periods that most of the torture described to the Group takes place.

192. The type of ill-treatment reported by persons who appeared before the Group falls into three broad categories:

(a) Bad prison conditions, such as overcrowding, humiliating work, adverse climatic conditions, poor hygienic conditions, prolonged periods of solitary confinement, usually in complete darkness or while the detainees are blindfolded;

(b) Actual physical ill-treatment, generally applied during interrogation, with the alleged purpose of extracting information from the victims. The Group heard evidence from persons who testified that they had been subjected to severe beatings, rape and sexual abuse, the use of drugs, having their nails forcibly torn off, being thrown to cactus bushes, having dogs let loose at them;

(c) Psychological pressure by taunting and in several instances by threats to the life and security of relatives and friends. Also mentioned in some instances was the provocation of acute moral and psychological anguish by forcing victims to witness physical and sexual abuse of close relatives or friends.

193. Although the present military Government has been in power for two years, evidence recently recorded tends to reveal an increase in the resort to

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psychological torture, particularly in the form of moral pressure and the use of drugs. Several forms of torture were described to the Group by persons who had themselves been victims of or eyewitnesses to, such tortures. The Group examined scars on persons who alleged those marks were attributable to torture. Some forms of torture were common to several cases, such as:

(a) The application of electricity to sensitive parts of the body, including genital organs, rendered more acute by placing the naked body on a steel bed-frame or a wet bed;

(b) Rape and sexual abuse as a common feature of the treatment of women prisoners and detainees, in some cases repeated with intensity and resulting in death or severe psychological trauma;

(c) The introduction of objects like sticks, the necks of bottles, and even guitar shafts, into the vagina or the anus;

(d) Beatings, usually with heavy objects such as guns, wooden or metal sticks, chains, etc.

Other forms of torture were also reported to the Group which were particularly heinous or revolting, for example:

(e) The "Pau de Arará". The prisoner's hands and feet are both tied together and a long piece of iron is introduced between the tied extremities; the body is suspended for hours. The victim is then usually subjected to further torture when in this position;

(f) Introduction of live mice into the vagina (care is taken not to blindfold the prisoner, so that her terror is intensified);

(g) Torture by burns: lighted cigarettes are used to burn different parts of the body, especially the chest, breast and penis;

(h) Swallowing of excrement or immersion in sewage and the use of sewage water for consumption by prisoners;

(i) Women are forced to lie naked on a cot, and trained dogs are made to run over their naked bodies, suck and bite their nipples, and in some cases, rape them.

194. The evidence before the Group reflects a large degree of uniformity in the techniques adopted for torture of detainees. Most persons who alleged they had undergone torture stated that they had been kept blindfolded throughout the period of interrogation and could not identify the persons responsible for their ill-treatment. A considerable number of witnesses mentioned one individual who identified himself to them as Oswaldo Romo, and usually boasted to his victims of his prowess as a torturer and as an extractor of information. The attention of the General Assembly is particularly drawn to the acts of this Romo. The Group also wishes to place on record the names of the following persons alleged

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to have tortured detainees: Capitán Carlos Foncea (Navy), Lieutenant Luis Silva (Navy), Major Francisco Ponares, Investigation Sergeant Juan Muñoz, Commander Victor Enriquez (Navy), Lieutenant Juan Arexavala (Navy), Lieutenant Jorge Caceres (Navy), Luz Arce, Lieutenant Offesman, Detective Zapata (Investigations), Captain Miguel Labra (Navy).

195. It is with profound disgust that the Ad Hoc Working Group feels that it is obliged to report these elements to the General Assembly, which were presented to it by many Chileans of both sexes, of all ages, and of many political convictions or none, some of whom had left Chile in the very recent past. Whether it is for the purpose of punishing past political enemies or extracting in a haphazard way information which might possibly endanger the régime which has now been in power without significant disturbance for nearly two years, such acts are forbidden by international law even under an emergency situation, and it goes without saying that many of them are inexcusable and constitute an affront to the elementary moral standards of mankind and the dignity of the human individual. The fact that massive torture methods appear to be taught and learnt by investigating officers, whether members of the armed forces or not, as a technique or a new science, merely from the standpoint of their effectiveness and without consideration of any human standards, is ominous and calls for strong reprobation. The Group feels that the question of torture and cruel and inhuman treatment, including threats to human life and the security of the person, and the allegations relating to the existence of "concentration camps", should continue to retain the urgent attention of all organs of the United Nations concerned in one way or another with the implementation of the United Nations provisions concerning human rights.

#### E. The situation of women, children and youth

196. The members of the Ad Hoc Working Group, both on account of their own personal concern, and bearing in mind the wish expressed by the World Conference of the International Women's Year, <sup>14/</sup> paid special attention to the present situation of women and children in Chile. The Group decided to include in a separate section of its progress report its preliminary findings on the subject based on the oral and written information which it received in the course of its investigation.

197. The Group noted that, in numerous public statements and communications, the Government of Chile expressed a keen interest in the role that the family, and women and youth in particular, are to play in the "new society" purportedly in the making. The "Declaration of Principles of the Chilean Government", issued in March 1974, includes a section entitled "The family, womanhood and youth, pillars of national reconstruction", which contains the following statement:

"Finally, the present government feels the whole task it has outlined must rest solidly on the family as a school for moral upbringing, of self-sacrifice and generosity to others, and of untarnished love of country.

"Within the family, womanhood finds fulfilment in the greatness of

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<sup>14/</sup> See para. 23 above.

her mission, and thus becomes the spiritual rock of the nation. It is from her that youth is born who, today more than ever, must contribute its generosity and idealism to Chile's task." 15/

198. The Group also noted that on several occasions members of the Government had stressed the significant role played by women in bringing about the political change in Chile and the importance of their participation in the building up of the "new society". The National Department of Women (Dirección Nacional de la Mujer), which was established by the previous Government, is said to be expected to contribute actively to this process. The Group has received communications from Chilean women, some of them identifying themselves as housewives, expressing support for the policies of the present Government and stressing in particular the order apparently reigning at present in Chile and the reported abundance of food and other needs of family life.

199. On the other hand, the Ad Hoc Working Group has received extensive oral and written evidence to the effect that many women and children have been and continue to be adversely affected by the situation prevailing in Chile. They have suffered, with the same frequency and intensity as men, the denials, limitations and restrictions of basic human rights and fundamental freedoms described in other parts of the present chapter. In addition, certain specific elements were brought to the attention of the Ad Hoc Working Group. On the one hand, women have been tortured or ill treated, and family unity has been threatened because of the absence of the breadwinner. On the other hand, women, youth and children suffer anguish as a result of not knowing the whereabouts of missing members of their families.

200. The Group was informed that women are often arrested and detained without charge, and on occasions even tortured, simply because they are the wives, mothers, sisters, daughters, other relatives or friends of persons known to have had political or trade union activities under the previous Government. The purpose is said to be to exercise pressure on the militants concerned, in order to make them surrender to the police. It was also alleged before the Group that children have similarly been held at times as hostages in order to force their parents, who were in hiding, to surrender.

201. The Group was informed that in recent years - not only those of the previous Government - women's participation in public life had been increasing. The proportion of women leaders, organizers, artists, intellectuals, senior administrators and outstanding personalities in general is said to have been much higher in Chile than in any other Latin American country. On the other hand, it was alleged that current official propaganda about women tends to stress their dependence and to relegate them to their traditional roles and places in society. In this connexion, the attention of the Group was drawn to an article published on 20 April 1975 in the Sunday magazine of El Mercurio, under the title "Invasión discutida", in which it was said that the Dean and other officials of the School of Medicine in the Catholic University of Santiago were advocating a drastic

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15/ Declaration of Principles of the Chilean Government (Santiago, March 1974), part III, sect. 9.

limitation of female registration, which in that school amounted to more than 50 per cent of the total student body. Among other reasons invoked in favour of this measure, it was argued that women had other goals to attain, represented by marriage and rearing children.

202. It has been reported that women seeking to obtain information on the whereabouts of arrested husbands or relatives are subjected to threats and sometimes themselves arrested and detained. This has resulted in the trend towards disintegration of the family unit, as almost invariably, upon the arrest of their husbands, women become the only source of economic support for the entire family. If employed at the time, they are sometimes dismissed; in many cases, they have great difficulty in finding a regular job again. They are also the victims of the increasing unemployment in the country. Very often, the family has to move out of the house it has been occupying, as the landlord will refuse to continue to lease his property to people who are in difficulties with the authorities "for political reasons".

203. It was emphasized that the widespread loss of employment, coupled with the impossibility - mainly for "political reasons" - of obtaining new employment in suitable occupations, entailed for women the consequent loss of maternity benefits. It was also stated that many qualified women workers or university women had been forced to seek employment as unskilled workers or as domestic servants. The employment or re-employment problem of young people who are affected for the same "political reasons" is also very acute.

204. It has been repeatedly stated that expectant mothers are arrested and often detained and imprisoned without receiving the special medical care and assistance needed. Many of them have been subjected to extreme ill-treatment and some of them even tortured. In some cases, where children have been born to detained women, the lack of proper post-natal medical attention and the unhygienic conditions have been reported as resulting in infectious complications.

205. Moreover, according to the statement made before the Group by many alleged victims, women arrested or detained are subjected to sexual abuse in varying degrees, ranging from pressure for sexual intercourse in exchange for favours (as, for example, obtaining information on the whereabouts of their husbands or relatives, obtaining their release or having an opportunity to visit them) to actual rape. Sexual abuse or rape has often taken place in the presence of other persons of either sex, sometimes including close relatives of the victims (parents, brothers or children). The Group was informed of at least one case in which a father was forced to have sexual intercourse with his daughter. In a number of cases, women have been raped several times by different individuals. Dogs have been used on many of these women to sexually abuse them and bite and scratch their breasts and genitals.

206. It must be pointed out, however, that women are not only the victims of torture and ill-treatment; they are also employed for inflicting torture. It was reported to the Group that numerous women have been, and are being, recruited by the various intelligence services in their different dependencies and have been taking part in inflicting torture on women detained for political reasons.

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207. According to the information available to the Group, prostitution has shown an alarming increase in Chile since September 1973. This was felt to be one of the repercussions of the weakening of the family unit and of the present economic and social situation in the country. This increase has been denounced on several occasions by Roman Catholic bishops, who have particularly deplored the existence of juvenile prostitution. In this connexion, juvenile delinquency was also reported to be on the increase.

208. Children suffer special hardship, both as a consequence of political or economic difficulties, which in the first instance affect their parents, and also more directly because certain actions are especially detrimental to them. It was pointed out that the arrest or detention of parents deprives many children of parental care. Economic difficulties such as widespread unemployment and steep inflation, which result at times in the inability of a family to afford even basic necessities, cause children to lack the nourishment they require for proper growth and good health. Infant mortality, according to recent statistics published by the Economic Commission for Latin America, is on the rise.

209. Minors are treated in the same manner as adults when accused before military courts of "crimes against national security". Similarly, authorities make no distinction in detention camps and prisons between adults and minors, and the latter are also subjected to torture. It was stated before the Group that both military courts and prison authorities were acting, in these respects, in violation of Chilean law regarding minors. The Group's attention was also drawn to the fact that it becomes very difficult for a minor to pursue his education when he has been released from arrest or detention.

210. The Ad Hoc Working Group was informed that the incidence of mental illness among women and children in families of detained and "disappeared" persons is increasing. The socio-economic stresses experienced by these women and children in their endeavours to cope with life in the absence of the breadwinner contribute to this increase.

211. It was also reported that no form of privacy is provided for women detained in interrogation centres. The hygienic conditions and facilities in these centres were said to be deplorable and dangerous to the detainees' health.

F. The general situation as regards the respect of human rights in relation to civil and political rights and economic, social and cultural rights

212. In the preceding sections of this chapter, the Group focused its attention on certain specific questions in respect of which United Nations organs have expressed particular concern. The present section contains some additional observations made by the Group regarding other aspects of human rights, which may contribute to the understanding and assessment of the general situation in Chile as regards the exercise of civil and political rights and the enjoyment of economic, social and cultural rights in relation to the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international instruments.

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(a) Civil and political rights

Political rights

213. As explained in chapter III, all political parties which supported the previous Government have been dissolved and outlawed. All organizations, political, cultural, social or economic, that were directly or indirectly linked with them have also been dissolved. Under decree-law No. 77 of 8 October 1973, all their possessions, financial resources and communication media were confiscated. Furthermore, decree-law No. 78 of 11 October 1973 declared "in recess" the other political parties which had represented the opposition to the previous constitutional Government.

214. It should also be recalled that by decree-law No. 130 of November 1973, purportedly on the basis of reports that the electoral registers had been found to contain numerous fraudulent registrations, all electoral registers in the country were declared invalid. The electoral registers were publicly destroyed in July 1974, and the Director of the Electoral Register was "authorized" to sell all the remaining stock of paper for the registers to a paper factory, in order to "recover the raw material". It has been contended that the preparation of new registers, or the adoption of another form of voter registration, will necessarily take several years, during which no fair and impartial elections of any kind can, therefore, be held.

215. Under these circumstances and with the atmosphere prevailing at this time in the country, the principles proclaimed in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, according to which the basis of the authority of government shall be the will of the people expressed in periodic and genuine elections through universal and equal suffrage held by secret vote or by equivalent free voting procedures has no application in Chile today. Chilean citizens have no opportunity of exercising their right to take part in the conduct of the public affairs of their country, directly or through freely chosen representatives, nor to vote or be elected at genuine periodic elections. Only those who support the present Government can vote.

216. The Declaration of Principles of the Chilean Government (March 1974) contains the following statements on the undetermined time the present régime has set for its stay in power and on the situation it envisages in the period subsequent to the holding of elections:

"The Armed Forces have set no time-limit on their stay in government; the task of morally, institutionally, and materially rebuilding the country requires a prolonged and profound effort. Even further, and most categorically, this Government has no intention of limiting itself to a merely administrative role, providing a breathing space between two party governments. In other words, Chile is not going through a period of truce, prior to restoring power to those same politicians who were so responsible, by act or omission, for the virtual destruction of the country. It is the hope of the Government to inaugurate a new stage in our national destiny, breaking ground for new generations of Chileans raised in a school of healthy civic habits.

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"Nevertheless, although the Government sets no date, it will, in due time, hand over political power to whomever the people may elect by a universal, free, secret, and informed vote.

"Do not take this to mean that the Armed Forces will disassociate themselves from whichever government follows them, just to watch the outcome as mere spectators. On the contrary, the President of the Government has said that he considers part of its mission to inspire a new and great movement; this is already emerging as a result of the present situation, and it will carry forward into the future, solidly and permanently, the efforts of this Government." 16/

217. These principles also affect the right of Chilean citizens to have access, on general terms of equality, to the public service in their country. The Ad Hoc Working Group received information on mass dismissals of public officials and personnel of the different services of the public administration after the events of 11 September 1973. It has been reported that only persons with no significant record of action under the previous Government and who are known supporters of the present military Government are safe in the tenure of their posts in the public administration or may aspire to have access to the public service today in Chile. It is alleged that decree-law No. 930 of 11 March 1975, which terminated the temporary situation of the personnel of the administration of the State and provided that contracts could be cancelled for acts attempting against the security of the State, has institutionalized a procedure aimed at restricting employment in the public service to those persons who support the present Government and its policies. However, some persons belonging to public enterprises said that there had been no dismissals from government service on political grounds.

#### Freedom of opinion and expression

218. As to the right to hold and express opinions, with particular reference to political opinions, the Declaration of Principles of the Chilean Government (March 1974) states the following:

"Another important characteristic of our legal tradition has been respect for freedom of thought and the right to dissent. Both must be preserved in the legal state which the September 11th movement intends to re-establish, and which, basically, have been preserved within the scope of the emergency measures presently governing this State. Human rights must be strengthened, so they may be effectively enjoyed by all, and all may truly have an equal chance. The right to dissent must be preserved, but the experience of recent years shows the need to subject it to acceptable limits. Never again must a naive democracy allow within its midst organized groups acting under the guise of misunderstood pluralism, to foster guerrilla violence to attain power or, feigning a

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16/ Ibid., part III, sect. 6.

respect for democracy, to further a doctrine or morality whose objective is the construction of a totalitarian state. For this reason, Marxist parties and movements will no longer be admitted into our civic life.

"It should be clear, then, that Chile is not neutral in her relationship to marxism. Her concept of the individual in relation to society, fundamentally opposed to that of marxism, makes this impossible. The present Government neither fears nor hesitates to declare itself anti-marxist. This is no negative attitude; it is, in fact, marxism which denies the most fundamental values of true civilization. In politics or morality, just as in mathematics, the denial of a negative implies an AFFIRMATIVE. Anti-marxism implies, therefore, the positive affirmation of the freedom and dignity of the human being." 17/

219. The Ad Hoc Working Group has been informed that the present military régime of Chile has taken measures which impose severe limitations on the freedom of opinion and expression. While the expression of support for the present régime is said to be allowed and actively encouraged, the same is alleged not to apply to criticism of its actions or policies. Moreover, it is reported that the expression of, or even the mere allegation that a person holds, dissenting political opinions may entail grave consequences for the persons concerned. It has been contended that as a result of decree-law No. 77, "marxism" is considered as a felony in itself. Numerous statements received by the Ad Hoc Working Group would show that the mere fact that a person may have expressed "marxist" convictions, even though it be in private, is enough to cause his or her persecution, arrest and detention, and subjection to all kinds of abuses of the type described in other parts of the present chapter of this report. It is also said to result in the dismissal of workers and their blacklisting, which denies them any possibility of finding other employment. Furthermore, it was said by some persons that the expression of dissenting views on technical and economic matters could be published, but not views criticizing the political guidelines formulated by the Chilean Government.

220. Contrary to what is said to have been declared by the present Government to the effect that freedom of the press exists, and that there is at most self-imposed censorship by newspapers and broadcasting stations, it has been stated to the Group that there is strict control over all the media, and that, as a rule, they can only publish news and express ideas which are in conformity with those of the authorities. It is said that military order No. 15 established strict press censorship. No newspapers, magazines or documents of any kind can be printed or distributed without previous permission. In accordance with military order No. 15, decree-laws No. 12 and No. 77 and the regulations of decree-law No. 78, presses, publications, radio and television stations that used to support the previous Government have been closed and their assets confiscated. Books, including textbooks, pamphlets and periodicals considered as "subversive" are said to have been seized from libraries and publicly burned on the streets. It was reported that official pressure was being exerted on publishing houses. Many newspapermen and journalists are said to have been arrested, detained and exiled, merely because of their ideological leanings or because of their criticism of the

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17/ Ibid., part III, sect. 5.



present Government. However, one person maintained that it was possible to buy in Chilean bookshops works devoted to marxist ideology; only works dealing with the subversive tactics of this ideology were banned.

#### Freedom of association

221. According to information available to the Ad Hoc Working Group, the right to freedom of association has been severely curtailed by the present Government through decree-laws, as well as by specific decisions. It has been contended that no formal associations have been formed since September 1973. However, certain informal associations, such as those of housewives in support of the present Government, have been permitted and encouraged by the present Government. As already mentioned, political parties and related organizations and movements have been dissolved or declared "in recess". As will be seen below, professional and occupational associations or labour unions have been severely curtailed in their activities.

#### Right of peaceful assembly

222. The Ad Hoc Working Group received statements to the effect that the right of peaceful assembly has been subjected to such limitations and restrictions that it has virtually disappeared from Chile in the present situation. Except for family meetings and gatherings for religious purposes, all other meetings, including informal gatherings of young people for purposes of entertainment, have to be previously authorized, or notified in advance to the police. Meetings which may be of interest to the present Government are, however, permitted. No meetings of a political character or linked more or less to political activities in a broader sense seem to be allowed.

#### Freedom of thought, conscience and religion

223. According to the information available to the Ad Hoc Working Group, no limitations are imposed on the right to worship. However, the present Government is said to have secretly exerted pressure on the authorities of the different churches and religious groups in order to warn them against any criticism of the Government. The fact was mentioned that some clergymen who had visited prisoners in the performance of their sacerdotal functions had been arrested and that attacks have been levelled against Catholic and Lutheran dignitaries, without any particular charges being made against them. On the other hand, there seems to be an increasing preoccupation on the part of religious communities and churches with reported violations of human rights in Chile. It has been reported that in April 1975, an "Episcopal Conference" of 27 bishops expressed concern regarding several aspects of the present situation of human rights in Chile.

#### Right to privacy

224. Information has been received by the Ad Hoc Working Group to the effect that today in Chile, homes are entered and searched at any time of the day or night,

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without a warrant, and with a display of unnecessary violence and sometimes brutality directed against the occupants, including children, and their belongings, and with no regard whatsoever for their right to privacy. It was stressed that the possessions of individuals of very modest means were not spared in the course of such perquisitions.

(b) Economic, social and cultural rights

225. The material and the evidence available to the Group suggests that the overall economic situation of Chile is precarious and tends to affect the enjoyment of economic, social and cultural rights by large sections of the population. Industrial activity is substantially below former levels and appears to be stagnating. The country's export trade has sharply deteriorated and estimates with respect to Chile's balance-of-payments deficit for 1975 have been in the range of \$900 million to \$1,200 million.

226. The inflation rate is estimated to be more than 400 per cent, an increase over the high rate prevailing in 1974. The rise in price for basic food items, such as bread, rice and sugar, has been particularly large, with estimates running to several thousand percentage points for the period of the past 12-18 months. Many basic necessities seem thus to be almost out of reach of the poorer sections of the population. Private and religious charitable groups have established food distribution centres catering to the requirements of needy people. It has been reported to the Group that the head of a family of five children, earning a basic salary, must spend 40 per cent of it just to provide bread for the household.

227. It is estimated that between 13.3 per cent and 17 per cent of the active labour force is currently unemployed. Although Chilean Government policy places a high priority on the agricultural sector, rural unemployment continues to run as high as 20 per cent in a number of the largely agricultural provinces.

Right to work

228. The Group heard testimony and examined material showing that approximately 300,000 workers in the public and private sectors have been dismissed for political reasons since 11 September 1973, including large numbers of university professors and teachers at other academic levels. Nearly the entire corps of non-professional health personnel previously employed in "neighbourhood health centres" was dismissed without compensation for having supported the previous Government. Dismissals in the public sector were carried out under provisions of decree-law No. 6, which converted all public sector personnel into "temporary" employees without tenure. Though these provisions were voided by decree-law No. 930 of 17 March 1975, an ILO commission of inquiry found that the special commissions established pursuant to decree-law No. 193 to deal with claims for reinstatement were not consistent with the relevant provisions of the ILO Discrimination Convention, No. 111, to which Chile is a party. A representative of trade unions in Chile stated that, whereas 50,000 public administration workers should have been dismissed according to decree-law No. 534, only 12,000 had, in fact, lost

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their jobs. He also expressed the view that the trade unions in existence looked after dismissed workers.

229. Subsequent to the finding of the ILO Commission of Inquiry, the Government of Chile agreed to abolish the special commissions, a development which the Commission of Inquiry noted with satisfaction. The report of the Commission of Inquiry to the Governing Body of the International Labour Organisation at its 196th session in May 1975 contains a recommendation that the Government of Chile "take the most suitable measures to provide persons whose dismissal may have been based on grounds of political opinion with the opportunity of having a fresh, impartial examination of their cases". 18/

230. Claims for reinstatement of persons dismissed from private sector employment are handled by special tribunals established under decree-law No. 32. Material available to the Group indicates that since the composition of such tribunals includes military officers and former employers of the dismissed employees, their impartiality may be open to question. The Group's attention was drawn to the fact that large numbers of persons still employed in the private sector feel anxiety over the possibility of their dismissal for reasons unrelated to economic factors or to their performance.

231. It was stated before the Group that professors holding objectionable political opinions who were forced to resign or were dismissed for this reason from their positions at the University of Chile were denied their back pay and the medical, social security and compensation payments to which they were entitled under the law, and further, that certificates attesting to their employment at the University were also denied to them, making it extremely difficult for them to find new employment within their profession in Chile or abroad.

#### Trade union rights

232. The Group examined material, including ILO reports, showing that trade union rights are infringed in several respects. In particular, meetings of the trade unions still in existence cannot be freely convened and held; trade union elections, collective bargaining and strikes are prohibited; the assets of a number of trade unions have been either frozen or confiscated and, although they have not been legally dissolved, their activities are at a standstill.

233. The Fact-Finding and Conciliation Commission on Freedom of Association, appointed by the Governing Body of the ILO, after having examined the situation in Chile with respect to these matters, stated in its final recommendations that in

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18/ Report of the Commission Appointed under Article 26 of the Constitution of the International Labour Organisation to Examine the Observance by Chile of the Hours of Work (Industry) Convention, 1919 (No. 1), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), provisional edition (Geneva, International Labour Office, 1975), p. 53. One representative of a trade union in Chile stated that the Government respects the Hours of Work (Industry) Convention, 1919 (No. 1).

its view the time had come "for steps to be taken to put an end to the serious infringements of the principles of freedom of association and to ensure the respect for the civil liberties which are essential to the exercise of trade union rights". 19/

234. Persons appearing before the Group on behalf of the National Telegraph and Post Association, the public administration workers and the National Federation of Lorry Owners, stated that the number of trade unions had increased during the present Government. There are in existence 1,892 industrial trade unions and 4,014 professional trade unions in Chile. But they said that the Government wanted to free trade unions from the Central Unica de Trabajadores (CUT), which was financed by international marxism. They also said that there were no members of CUT detained for political reasons but only because they were charged with committing common offences. They also stated that they had succeeded in obtaining the freedom of certain of its trade union leaders. Other trade union leaders had given statements quite contrary to this.

#### Education

235. Evidence before the Group indicates that the entire educational system of the country, primary, secondary and university, has come under military control. Universities are controlled, pursuant to decree-law No. 50, by "Councils of Rector-Delegates", whose membership includes military officers. Courses on history and the political and social sciences have been restricted or abolished and new courses on "national security" have been introduced into the curricula. Textbooks considered ideologically improper have been banned from the schools. According to an estimate submitted to the Group, some 22,000 students were dismissed from universities subsequent to the events of 11 September 1973. Access to education at the university level is expected to drop still further and become more restrictive as State financial support to such institutions is reduced and as economic difficulties continue. The Group heard several teachers who criticized the deplorable situation prevailing in this important sector. Nevertheless, a few persons stated that there had been no expulsions of teachers or students from universities.

#### Health services

236. The Group received evidence that nearly all of the "neighbourhood health centres" which formerly operated throughout the country under a decentralized system of locally controlled health councils have been closed or have reduced their operations. Most of the services formerly provided by these centres can only be obtained now at hospitals, to which many people in remote areas have little or no access. Public and community health services in general, which were

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19/ The Trade Union Situation in Chile: Report of the Fact-Finding and Conciliation Commission on Freedom of Association, provisional edition (Geneva, International Labour Office, 1975), p. 118.

primarily designed to serve the health needs of the less advantaged sections of the population, have been sharply curtailed and the provision of health services has again become a matter primarily for the private medical practitioners, servicing a relatively limited clientèle who can afford to pay for such services. It was reported that this situation had resulted in an increase of the infant mortality rate in the country.

#### Family life

237. The evidence before the Group tends to reveal that there is serious impairment of family life in Chile. This is particularly the case in families where the head of the household has been arrested or detained, causing not only the loss of the family member's presence and economic contribution, but also fear within the family and its isolation within the community.

#### Cultural expression

238. The Group has received evidence that cultural expression is controlled by public authorities in Chile and that such control has led to the curtailment or inhibition of such expression. The evidence was, however, denied by persons who came directly from Santiago to testify before the Group. Books and works of art considered undesirable have been removed from library shelves or from display and have also been destroyed. One recent specific example cited involved a sculpture by Guillermo Nuñez of a bird cage entitled: "Put your head in it and you will see how the world looks from a bird cage ...". This sculpture was removed by the authorities from an exhibit of works by Nuñez at the Instituto Chileno-Francés de Cultura and the artist was arrested. The name of Gabriela Mistral, winner of the Nobel Prize for Literature, was removed from an institution and substituted by that of another despite the fact that this illustrious woman writer, who died before September 1973, never militated in any political party although she was fervently devoted to democracy. The works of Pablo Neruda, also a Nobel Prize Laureate, however, have not been withdrawn from display and sale in Chile.

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V. ADOPTION OF THE REPORT

239. At the meeting held on 30 August 1975 the progress report was unanimously adopted and signed by the members of the Working Group.

(Signed) Ghulam Ali Allana (Pakistan)  
Chairman/Rapporteur

(Signed) Leopoldo Benites (Ecuador)

(Signed) Abdoulaye Dieye (Senegal)

(Signed) Felix Ermacora (Austria)

(Signed) M. J. T. Kamara (Sierra Leone)

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ANNEXES

Annex I

NOTE CONCERNING THE TERMS OF REFERENCE OF THE AD HOC WORKING GROUP  
ESTABLISHED UNDER RESOLUTION 8 (XXXI) OF THE COMMISSION ON HUMAN  
RIGHTS TO INQUIRE INTO THE PRESENT SITUATION OF HUMAN RIGHTS IN  
CHILE

Adopted by the Ad Hoc Working Group at its 5th  
meeting, on 22 May 1975

1. Under paragraph 1 of resolution 8 (XXXI) of the Commission on Human Rights, a/ the Ad Hoc Working Group "shall inquire into the present situation of human rights in Chile". It is to perform this task on the basis of various "resolutions" mentioned in the preamble. For this purpose, the group is to make a visit to Chile. It may consider oral as well as written evidence to be gathered from all relevant sources.

A. Substantive scope of the inquiry  
to be conducted by the Group

2. Resolution 8 (XXXI) does not elaborate on the expression "the present situation of human rights in Chile". The word "present" may, however, be of some importance, as indicating that the inquiry is to bear on the current situation, i.e. that prevailing at the time the Group performs its functions, or by a more extensive interpretation, during the period of concern expressed in the United Nations organs regarding the situation of human rights in Chile. The reference to resolutions and other decisions of the United Nations organs would confirm this approach. Accordingly the Group would give to the expression "the present situation of human rights in Chile", the wider connotation which would include consideration of correlated antecedents.

3. The provisions of the resolutions and decisions of the United Nations and specialized agencies organs listed in the second paragraph of the preamble to resolution 8 (XXXI) indicate a continuity in the nature of the preoccupations of these organs as to the situation of human rights in Chile.

These concerns bear in general on allegations of gross and massive violations of human rights in contradiction with the Universal Declaration of Human Rights and with other international instruments ratified by a great number

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a/ See appendix, sect. G.

of countries, including Chile. b/ The principles of the United Nations Charter and the provisions of the International Covenants on Human Rights are specifically mentioned (e.g. telegram to the Government of Chile sent by the Commission at its thirtieth session, c/ Economic and Social Council resolution 1873 (LVI), d/ resolution 8 (XXVII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities e/).

In particular, concern is expressed in specific terms for "the protection of persons whose lives are reported to be in imminent danger", including such outstanding political, social and cultural figures as former ministers, senators and heads and professors of universities - as well as other persons - Chilean citizens and foreigners, (e.g. Commission's telegram). "Threats to human lives" are also mentioned in Council resolution 1873 (LVI).

"Threats to human liberty" are also referred to in Council resolution 1873 (LVI) and in Sub-Commission resolution 8 (XXVII).

Arbitrary arrest, torture, cruel and inhuman treatment of prisoners and detainees - in gaols and concentration camps, have been emphasized in Sub-Commission resolution 8 (XXVII), in conjunction with General Assembly resolution 3059 (XXVIII) (specifically rejecting all forms of torture and other cruel, inhuman or degrading treatment or punishment). These preoccupations were the basis for the recommendation of the Sub-Commission to the Commission to study the reported violations of human rights in Chile and for the request of the Sub-Commission to the specialized agencies, other intergovernmental organizations, as well as non-governmental organizations in consultative status concerned to submit relevant, recent and reliable information to the Commission.

4. Resolution X of the fifty-ninth session of the International Labour Conference f/ concerning human and trade union rights in Chile expresses in particular the concern of that organization with the arrest, execution and deportation of trade unionists, the dissolutions of trade union organizations and the restrictions of the right to organize and that of collective bargaining. It

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b/ Chile is a party to the following international instruments adopted within the United Nations system with regard to human rights: the International Covenant on Economic, Cultural and Social Rights; the International Covenant on Civil and Political Rights; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention relating to the Status of Refugees; the Convention on the Political Rights of Women.

c/ See appendix, sect. A.

d/ See appendix, sect. B.

e/ See appendix, sect. C.

f/ See appendix, sect. D.

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refers to the question of the working week, wages and the non-application of the provisions of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Hours of Work (Industry) Convention, 1919 (No. 1). It mentions, however, also the "violation of human and democratic rights", the existence of "concentration camps and special tribunals", torture, etc.

5. Resolution 11.1 adopted by the General Conference of UNESCO at its eighteenth session g/ expresses the concern of the Conference, in general for the repeated charges of violations of human rights in Chile, and in particular with regard to imprisonment, exile or death of Chileans prominent in the fields of education, science and culture; the barring of access to educational establishments on the grounds of political opinion, military interference in the highest academic institutions of that country and such acts as the public burning of educational materials and other works of importance forming part of the cultural heritage of mankind. The General Conference calls "for the immediate cessation of violations of human rights and fundamental freedoms in Chile, especially the restrictions on the right to education, culture and scientific development and, on freedom of thought, conscience, expression, work and association proclaimed in articles 18, 19, 20, 26 and 27 of the Universal Declaration of Human Rights".

6. Resolution 3219 (XXIX) of the General Assembly on the protection of human rights in Chile h/ recalls in its preamble all previous actions of United Nations organs with respect to human rights in Chile, as well as resolution X of the ILO. (Resolution 11.1 of UNESCO was not brought to the attention of the General Assembly at the time resolution 3219 (XXIX) was adopted). It refers once again to the fact that "gross and massive violations of human rights, such as arbitrary arrest, torture and cruel, inhuman and degrading treatment of political prisoners and detainees, including former members of the Chilean Government and Parliament" continue to be reported.

The Chilean authorities are urged "to respect fully the principles of the Universal Declaration of Human Rights and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms" in general. In particular are mentioned: (i) those situations "involving a threat to human life and liberty"; (ii) the release of all persons who have been detained without charge - or - who are imprisoned solely for political reasons; and (iii) the granting of safe conduct to those who desire it.

Specific reference is made to the concern expressed by the Sub-Commission as regards torture and cruel, inhuman or degrading treatment or punishment.

7. It appears from the above as well as from the records of discussions in the Commission as recorded in the report of the thirty-first session that the subjects of investigation by the Ad Hoc Working Group would include:

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g/ See appendix, sect. E.

h/ See appendix, sect. F.

(a) The questions specifically mentioned by the General Assembly in resolution 3219 (XXIX) and by other United Nations organs, i.e.,

- (i) The question of the release of all persons who have been detained without charge;
- (ii) The question of the release of all persons who have been imprisoned solely for political reasons;
- (iii) The question of the granting of safe conduct to those - Chileans and foreigners - who desire it; the question of forcible expulsions from Chile;
- (iv) The question of threats to human life and security of person in respect of those persons who have occupied important positions and of others;
- (v) The question of torture and cruel, inhuman and degrading treatment or punishment;
- (vi) The question of the alleged existence of "concentration camps";

(b) The question of the state of siege and the existence and jurisdiction of special courts established under the state of siege;

(c) The general situation as regards the respect of human rights in relation to the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments concluded under the auspices of the United Nations which may be relevant;

(d) Other matters referred to specifically in the resolutions of ILO and UNESCO to the extent warranted in the light of investigations and other steps taken by those specialized agencies.

8. It should be borne in mind that the main purpose of the General Assembly resolution and those of the other United Nations organs is the "restoration and safeguard" of basic human rights and fundamental freedoms. All data relevant to the achievement of this goal or to prospects of achievement of the goal in the future would be of significance.

9. In view of the limited time at the disposal of the Ad Hoc Working Group for the investigation and for the preparation of its progress report to the General Assembly at its thirtieth session and of its final report to the Commission on Human Rights, priorities as to areas to be covered by the investigation would have to be borne in mind.

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B. Methods of investigation

10. Under paragraph 1 of Commission resolution 8 (XXXI), the inquiry is to be undertaken on the basis of a visit to Chile. Under paragraph 2, the Government of Chile is requested "to extend its full co-operation to the Working Group in fulfilling its task, including the granting of all necessary facilities and complete freedom of movement in the country for this purpose".

At the 1323rd meeting of the Commission on Human Rights on 27 February 1975, and the meeting of the Social Committee of the Council, held on 28 April 1975, representatives of the Government of Chile agreed to comply with this request.

11. In the light of consultations held in particular with the Chilean authorities, the visit would take place between 10 and 30 July 1975. The practical data as regards the visit and liaison arrangements with the Chilean Government will be examined separately.

The details of the programme of the visit could be determined on behalf of the Group by the Chairman and might contain such elements as may be considered indispensable during the available time as well as elements which could be included, time permitting.

The Ad Hoc Working Group may also base its inquiry on oral and written evidence to be gathered from all relevant sources.

Hearing of testimony could presumably take place during the Group's visit to Chile, as well as outside Chile, at suitable times and subject to such procedural arrangements as the Group may determine or approve in regard to the selection of witnesses, and within the limits of resources which may be available for this purpose. It is assumed that the Group would examine requests which it would receive in this connexion in Chile and outside Chile, while reserving the possibility of inviting such testimony by decision of the Group on the proposal of its members.

12. Written evidence will, in all likelihood, be submitted to the Group and distributed to the members of the Group in such form as may be appropriate or possible. A preliminary examination of such evidence could be undertaken by individual members of the Group and/or members of the secretariat of the Group.

13. Documentation previously distributed to the Commission on Human Rights might be used as appropriate as a guide in the preparation of the programme of the inquiry, in particular as regards persons to be interrogated, places to be visited, or subject matters to be investigated.

14. The Group will always be ready to receive and consider, at appropriate times and places, written and oral evidence submitted by the Government of Chile.

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C. Reports of the Ad Hoc Working Group

15. Under paragraph 3 of resolution 8 (XXXI), a progress report on the findings of the Group is to be transmitted to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under Assembly resolution 3219 (XXIX). The scope and the subject-matters to be dealt with in this progress report would be determined by the Group in the light of its inquiry, up to the period 18-29 August, at which time the Group will meet in Geneva for the purpose of considering and approving the progress report.

16. A final report on the results of the inquiry is to be submitted to the Commission on Human Rights at its thirty-second session. The Group will meet in January 1976 for the purpose of considering and approving this final report. Its scope and the subject-matters to be covered could be determined during the meetings of the Group to be held in August 1975.

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Appendix

DECISIONS ADOPTED BY ORGANS OF THE UNITED NATIONS AND  
SPECIALIZED AGENCIES

A. DECISION ADOPTED BY THE COMMISSION ON HUMAN RIGHTS  
AT ITS 1279TH MEETING ON 1 MARCH 1974

Telegram to the Government of Chile

The Commission decided to authorize the Chairman to address the following telegram to the Government of Chile:

"On behalf of the members of the United Nations Commission on Human Rights and as Chairman of the Commission at its thirtieth session, I have been authorized to send the following telegram to your Government:

'The Commission on Human Rights, while considering the obligation of all States under the Charter of the United Nations to promote universal respect and observance of human rights and fundamental freedoms, has considered with deep concern numerous reports from a wide variety of sources relating to gross and massive violations of human rights in Chile in contradiction with the Universal Declaration of Human Rights and other relevant international instruments ratified by a great number of countries, including Chile.

'The Commission on Human Rights, which has consistently deplored all violations of human rights, calls upon your Government for the immediate cessation of any kind of violations of human rights committed contrary to the principles of the United Nations Charter and other international instruments, including the International Covenants on Human Rights.

'The Commission expresses particular concern for the protection of persons whose lives are reported to be in imminent danger. These include such outstanding political, social and cultural figures as former ministers, senators and heads and professors of universities, among others, Clodomiro Almeida, Luis Corvalán, Enrique Kirberg, Pedro Felipe Ramires and Anselmo Sule, whose names have been cited as presently in the greatest danger for reasons of health or the conditions of their detention.

'The Commission insists that the above-mentioned persons and other Chilean citizens and foreigners in similar situations should not be prevented from leaving the country if they wish to do so.

'The Commission requests the Chilean authorities to inform its Chairman as a matter of urgency about the measures undertaken in

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pursuance of this telegram and about the fate and welfare of the above-mentioned and other persons being reported in dangerous conditions.'"

B. RESOLUTION ADOPTED BY THE ECONOMIC AND SOCIAL COUNCIL  
AT ITS 1899TH MEETING ON 17 MAY 1974

1873 (LVI). Protection of human rights in Chile

The Economic and Social Council,

Seriously concerned about the reported violations of human rights in Chile, particularly those involving a threat to human life and liberty,

Noting the concern of the Commission on Human Rights at its thirtieth session as expressed in the telegram from its Chairman to the Chilean Government, especially concern for the protection of persons whose lives are in imminent danger,

Noting also the reply dated 7 March 1974 of the Chilean Minister for Foreign Affairs,

Concerned that nevertheless violations of human rights in Chile continue to be reported,

1. Endorses the concern of the Commission on Human Rights;
2. Calls upon the Government of Chile to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in Chile, particularly in those cases involving a threat to human life and liberty.

C. RESOLUTION ADOPTED BY THE SUB-COMMISSION ON PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES AT ITS  
711TH MEETING ON 21 AUGUST 1974

8 (XXVII). The question of the human rights of persons subjected to any form of detention or imprisonment

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting that the General Assembly, in its resolution 3059 (XXVIII), expressed its grave concern that torture and other forms of cruel, inhuman or degrading treatment or punishment are still practised,

Noting the serious concern expressed by the Commission on Human Rights about gross and mass violations of human rights in Chile, particularly those involving a threat to human life and liberty,

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Noting also that Economic and Social Council resolution 1873 (LVI) called upon the Government of Chile to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in Chile, particularly those involving a threat to human life and liberty,

Deeply concerned about reports of gross violations of human rights and fundamental freedoms in Chile including arbitrary arrest, torture, cruel and inhuman treatment of the prisoners and detainees in gaols and concentration camps,

Considering that, notwithstanding the actions of the Commission on Human Rights and of the Economic and Social Council, and notwithstanding the General Assembly's specific rejection of all forms of torture and other cruel, inhuman or degrading treatment or punishment, numerous grave allegations continued to be made charging a consistent pattern of such flagrant violation of human rights,

1. Makes an urgent appeal to the Government of Chile to respect the Universal Declaration of Human Rights and to comply with the International Covenants on Human Rights, signed and ratified by the Government of Chile, and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in Chile, particularly those involving a threat to human life and liberty;
2. Recommends that the Commission on Human Rights at its thirty-first session study the reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment;
3. Requests the specialized agencies, other intergovernmental organizations, as well as non-governmental organizations in consultative status concerned to submit to the Secretary-General for reference to the Commission on Human Rights recent and reliable information on torture and other cruel, inhuman or degrading treatment or punishment in Chile;
4. Requests the Secretary-General to bring the present resolution to the attention of the Chilean authorities.

D. RESOLUTION ADOPTED BY THE GENERAL CONFERENCE OF THE ILO  
ON 24 JUNE 1974

Resolution X concerning human and trade union rights in Chile

The General Conference of the International Labour Organisation,

Expressing its deep concern at the gravity of the situation in Chile as regards the arrest, execution and deportation of trade unionists, violation of human and democratic rights, dissolutions of trade union organizations and restrictions of the right to organize and collective bargaining,

Referring to the reports and recommendations of the Committee on Freedom of

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Association submitted to and adopted by the Governing Body at its 191st (November 1973) and 192nd (February-March 1974) sessions,

Noting that the military junta has increased the working week by four hours (Decree No. 35) and has at the same time frozen wages, which is contrary to all national and occupational agreements in Chile and a flagrant violation of the principles and standards laid down in the Constitution of the ILO and in the Hours of Work (Industry) Convention, 1919 (No. 1), which has been ratified by Chile,

Noting that the Chilean authorities have secured the dismissal (by Legislative Decree No. 32) of tens of thousands of workers in industry, agriculture, services, the public service and the universities and has prohibited any employment of those persons in violation of the most elementary principles of non-discrimination based on political or trade union views, and, more particularly, of the provisions of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which has been ratified by Chile,

Stressing the fact that the military junta has suspended the operation of the conciliation committees and the labour arbitration courts (Order No. 36), thus establishing strict control by the military authorities over the labour courts,

Noting that the Governing Body decided to request the Chilean authorities to give their consent to the visit of the Fact-Finding and Conciliation Commission on Freedom of Association,

Noting that the Chilean authorities have now responded favourably to the request of the Governing Body;

1. Urges the Chilean authorities -

(a) to cease violations of human and trade union rights and to lift all restrictions on the exercise of trade union activities;

(b) to close down the concentration camps in which workers, militant workers and trade union leaders are interned for political reasons;

(c) to guarantee within the framework of a general amnesty, the life and freedom of the workers, militant workers and trade union leaders and members of any political parties who have been arrested, deported, or imprisoned;

(d) to repeal the repressive Acts, legislative decrees and orders issued since 11 September 1973, so that the Chilean workers can fully enjoy democratic liberties and trade union rights;

(e) to repeal the dissolution of the Central Organization of Workers (CUT) and guarantee its freedom of action;

(f) to abolish the special tribunals and withdraw trade union activities from the jurisdiction of the military authorities;

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(g) to put an end to the torturing of trade union militants and leaders and punish those who were responsible for such inhuman activities;

(h) to grant safe conducts to all trade union leaders and members of all parties and organizations who have taken refuge in embassies.

2. Invites the Governing Body of the International Labour Office to instruct the Director-General -

(a) to take with the utmost urgency the steps necessary to send immediately the Fact-Finding and Conciliation Commission to Chile;

(b) to set up, in accordance with article 26, paragraphs 3 and 4, of the Constitution of the International Labour Organisation, a Commission of Inquiry to study the failure of Chile to apply the Hours of Work (Industry) Convention, 1919 (No. 1), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), both of which Chile has ratified, and to submit a report on the subject to the 195th session of the Governing Body;

(c) to follow continuously the development of the trade union situation in Chile and to submit reports to the 194th session of the Governing Body and the 60th (1975) session of the General Conference.

E. RESOLUTION ADOPTED BY THE GENERAL CONFERENCE OF UNESCO  
AT THE 47TH PLENARY MEETING ON 23 NOVEMBER 1974

Resolution 11.31

The General Conference,

Considering that, as recognized in the preamble to the Constitution of UNESCO, the denial of the democratic principles of the dignity, equality and mutual respect of men and the exploitation of ignorance and prejudice may impede the development of mankind,

Recalling that the fundamental purpose of the organization is none other than to contribute, through education, science and culture, to peace and security in order to further universal respect for justice, for the rule of law and for human rights and fundamental freedoms,

Considering that the Universal Declaration of Human Rights of 10 December 1948 recognizes that everyone has the right to an education directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; and that everyone has the right freely to participate in the cultural life of the community and to share in scientific advancement and its benefits,

Mindful of the damaging effect of antihumanistic practices such as fascism on the full development of the intellectual life of peoples,

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Considering that UNESCO and its Member States should redouble their efforts on behalf of human rights and international peace and security by condemning and eliminating all antihumanistic practices stemming from fascism in view of their adverse effect on the development of friendly relations and mutual respect among nations,

Deeply concerned by the repeated charges of violations of human rights in Chile, particularly with regard to the imprisonment, exile or death of Chileans prominent in the fields of education, science and culture, the barring of access to educational establishments on the grounds of political opinion, military interference in the highest academic institutions of that country and such acts as the public burning of educational materials and other works of importance forming part of the cultural heritage of mankind,

Bearing in mind the actions taken by various bodies within the United Nations system with regard to the aforesaid violations of human rights in Chile,

1. Reiterates its condemnation and repudiation of fascism as a doctrine and a system of government inimical to the educational, scientific and cultural development of the peoples and a factor fundamentally endangering the development of friendly relations and collaboration among nations;

2. Calls for the immediate cessation of violations of human rights and fundamental freedoms in Chile, especially the restrictions on the right to education, culture and scientific development and on freedom of thought, conscience, expression, work and association proclaimed in articles 18, 19, 20, 26 and 27 of the Universal Declaration of Human Rights;

3. Requests the Director-General to take such measures within his competence as he may deem most appropriate to secure full respect for human rights in Chile.

F. RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY AT  
ITS 2278TH PLENARY MEETING ON 6 NOVEMBER 1974

3219 (XXIX). Protection of human rights in Chile

The General Assembly,

Convinced of its responsibility under the Charter of the United Nations to promote and encourage respect for human rights and fundamental freedoms for all,

Recalling that, in accordance with the Universal Declaration of Human Rights, everyone has the right to life, liberty and security of person and the right not to be subjected to arbitrary arrest, detention or exile or to torture or cruel, inhuman or degrading treatment or punishment,

Recalling also its resolution 3059 (XXVIII) of 2 November 1973,

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Taking into account the deep concern expressed by the Commission on Human Rights about reports from a wide variety of sources relating to gross and massive violations of human rights in Chile, particularly those involving a threat to human life and liberty,

Taking note of the appeal made by the Economic and Social Council, in its resolution 1873 (LVI) of 17 May 1974, to the Chilean authorities to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in that country, particularly in those cases involving a threat to human life and liberty,

Noting that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 8 (XXVII) of 21 August 1974, made an urgent appeal to the Chilean authorities to respect the Universal Declaration of Human Rights and to comply with the International Covenants on Human Rights signed and ratified by the Government of Chile,

Noting also that the International Labour Conference, in its resolution X of 24 June 1974, urged the Chilean authorities, inter alia, to cease violations of human rights and trade union rights, to guarantee the life and freedom of arrested, deported or imprisoned workers, militant workers and trade union leaders and members of any political party, to put an end to the practice of torture, to close down the concentration camps and to abolish the special tribunals, and decided to urge the speedy expedition to Chile of the Fact-Finding and Conciliation Commission on Freedom of Association as well as the setting up of a commission of inquiry,

Considering that, notwithstanding all the appeals made by various organs of the United Nations system, gross and massive violations of human rights, such as arbitrary arrest, torture and cruel, inhuman and degrading treatment of political prisoners and detainees, including former members of the Chilean Government and Parliament, continue to be reported,

1. Expresses its deepest concern that constant flagrant violations of basic human rights and fundamental freedoms in Chile continue to be reported;

2. Reiterates its repudiation of all forms of torture and other cruel, inhuman or degrading treatment or punishment;

3. Urges the Chilean authorities to respect fully the principles of the Universal Declaration of Human Rights and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms, particularly those involving a threat to human life and liberty, to release all persons who have been detained without charge or imprisoned solely for political reasons and to continue to grant safe conduct to those who desire it;

4. Endorses the recommendation made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 8 (XXVII), that the Commission on Human Rights at its thirty-first session should study the reported

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violations of human rights in Chile, with particular reference to torture and cruel, inhuman or degrading treatment or punishment;

5. Requests the President of the twenty-ninth session of the General Assembly and the Secretary-General to assist in any way they may deem appropriate in the re-establishment of basic human rights and fundamental freedoms in Chile in the light of paragraph 3 above;

6. Requests the Secretary-General to submit a report to the General Assembly at its thirtieth session on the action taken and progress achieved under paragraphs 3 to 5 above.

G. RESOLUTION ADOPTED BY THE COMMISSION ON HUMAN RIGHTS  
AT ITS 1323RD MEETING ON 27 FEBRUARY 1975

- 8 (XXXI). Study of reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment

The Commission on Human Rights,

Keeping in mind the Charter of the United Nations and the Universal Declaration of Human Rights,

Recalling its telegram dated 1 March 1974 to the Chilean authorities, taking into account the appeal made to the Chilean authorities by the Economic and Social Council in its resolution 1873 (LVI) of 17 May 1974, noting resolution 8 (XXVII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, aware of the appeals made to the Chilean authorities by the International Labour Conference at its fifty-ninth session and by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its eighteenth session and recalling General Assembly resolution 3219 (XXIX), in which an urgent appeal was made to Chile to restore basic human rights and fundamental freedoms,

Noting with serious concern the continuing reports of violations of human rights in Chile,

Noting further the statements made on item 7 of the agenda of the thirty-first session of the Commission on Human Rights,

1. Decides that an Ad Hoc Working Group of five members of the Commission, to be appointed in their personal capacity by the Chairman of the commission on Human Rights and to operate under his chairmanship, shall inquire into the present situation of human rights in Chile on the basis of the above-mentioned resolutions and of a visit to Chile and of oral and written evidence to be gathered from all relevant sources;

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2. Appeals to the Government of Chile to extend its full co-operation to the Working Group in fulfilling its task, including the granting of all necessary facilities and complete freedom of movement in the country for this purpose;
3. Requires the Ad Hoc Working Group to report the results of its inquiries to the Commission on Human Rights at its thirty-second session and to submit a progress report on its findings to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under General Assembly resolution 3219 (XXIX); thereafter the Ad Hoc Working Group shall cease to exist;
4. Requests the Secretary-General to render to the Ad Hoc Working Group all assistance which it might require in its work;
5. Recommends to the Economic and Social Council to make arrangements for the provision of adequate financial resources and staff for the implementation of the present resolution;
6. Decides to consider at its thirty-second session as a matter of high priority the question of the violations of human rights in Chile.

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Annex II

RULES OF PROCEDURE OF THE AD HOC WORKING GROUP TO INQUIRE INTO  
THE PRESENT SITUATION OF HUMAN RIGHTS IN CHILE

As adopted by the Group at its 5th meeting, on 22 May 1975

Section I: Constitution of the Ad Hoc Working Group

Status of the Ad Hoc Working Group

Rule 1

The Ad Hoc Working Group is a subsidiary organ of the United Nations Commission on Human Rights established by resolution 8 (XXXI) of the Commission adopted on 27 February 1975. The establishment of the Group was approved by a decision of the Economic and Social Council adopted on 6 May 1975.

Terms of reference

Rule 2

The terms of reference of the Ad Hoc Working Group are those set out by the Commission on Human Rights in its resolution 8 (XXXI).

Membership

Rule 3

The Ad Hoc Working Group is composed of five members: the Chairman of the Commission on Human Rights and four other members appointed in their personal capacity by the Chairman in conformity with resolution 8 (XXXI) of the Commission and other relevant decisions of the Commission.

Solemn declaration by members

Rule 4

Upon assuming his duties, each member of the Ad Hoc Working Group shall make the following solemn declaration:

"I solemnly declare that I will perform my duties and exercise my powers as a member of the Ad Hoc Working Group honourably, faithfully, impartially and conscientiously."

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## Meetings

### Rule 5

(a) All meetings of the Ad Hoc Working Group shall be held in camera unless the Group itself decides otherwise.

(b) The Secretary-General shall notify the members of the Ad Hoc Working Group of the date and place of the first meeting of the Group two weeks in advance of the meeting.

(c) Further meetings of the Ad Hoc Working Group shall be held, as circumstances may require, and within the framework of the financial resources placed at the disposal of the Group, by decision of the Ad Hoc Working Group, or its Chairman, or at the request of the majority of the members of the Ad Hoc Working Group, upon such dates as may be fixed by the Chairman after consultation with the Secretary-General and, when possible, with the other members of the Ad Hoc Working Group.

(d) Meetings shall normally be held at the United Nations Office at Geneva or at the United Nations Headquarters in New York. Meetings shall also be held in Chile during the Group's visit to that country in the discharge of its mandate. Another place for a meeting may be designated by the Ad Hoc Working Group in consultation with the Secretary-General, subject to the availability of funds, services and facilities, and in accordance with the regulations, rules, decisions and practices applicable to United Nations organs.

## Quorum

### Rule 6

A majority of the members shall constitute a quorum for each meeting of the Ad Hoc Working Group unless otherwise decided by the Group. The presence of a majority of the members shall be required, however, for the adoption of the reports of the Group in accordance with the provisions of resolution 8 (XXXI) of the Commission on Human Rights.

## Publicity of meetings

### Rule 7

(a) The Ad Hoc Working Group shall decide as to the public or private character of its meetings or parts of meetings. At the close of each meeting held in private, the Ad Hoc Working Group may issue a communiqué through the Secretariat.

(b) Statements on behalf of the Ad Hoc Working Group to information media shall be made by the Chairman or by a person designated by him.

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Expenditure of funds

Rule 8

(a) Otherwise than as provided in the statements of financial implications relating to the implementation of resolution 8 (XXXI), no decision involving expenditure shall be made by the Ad Hoc Working Group until the Secretariat has had an opportunity of studying the financial and administrative implications of the proposal and circulating to the Group a statement of such implications. It shall be the duty of the Chairman to draw the attention of members to the statement and to invite discussion on it.

(b) The Secretary-General shall meet the expenses to be incurred in respect of the Ad Hoc Working Group and furnish the services and facilities requested by it within the limits of his administrative and budgetary resources and in accordance with the regulations, rules, decisions and practices applicable to United Nations organs and bodies.

Section II: Agenda of meetings

Rule 9

(a) The provisional agenda for all meetings shall be drawn up by the Secretariat in consultation with the Chairman of the Ad Hoc Working Group, in conformity with the terms of reference of the Group, and shall include:

- (i) any matters which the Group has decided to include at a previous meeting;
- (ii) any item proposed by the Chairman of the Group;
- (iii) any item proposed by the majority of the members of the Group;
- (iv) any item proposed by the Principal Secretary.

(b) The provisional agenda for each meeting shall be communicated to the members of the Ad Hoc Working Group as early as possible and whenever practicable, in advance of the meeting.

(c) The first item on the provisional agenda shall be the adoption of the agenda.

Section III: Officers

Rule 10

(a) The Chairman of the Commission on Human Rights shall be the chairman of the Ad Hoc Working Group and shall present the reports of the Group to the competent organs of the United Nations as may be appropriate.

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(b) The Chairman shall declare the opening and closing of each meeting of the Ad Hoc Working Group, direct its discussions, ensure observance of the rules of procedure, accord the right to speak, put questions, and announce decisions.

(c) If the Chairman is unable to be present at a meeting or any part thereof, he shall designate one of the members to act in his place. The member so designated shall have the same powers and duties as the Chairman.

#### Section IV: Secretariat

##### Rule 11

(a) The secretariat of the Ad Hoc Working Group shall be provided by the Secretary-General.

(b) The Principal Secretary will be present at the meetings of the Ad Hoc Working Group. He or his representative may make either oral or written statements to the meetings of the Ad Hoc Working Group.

(c) The secretariat shall be responsible for keeping the members of the Ad Hoc Working Group informed on any questions which may be brought before it for consideration.

(d) The secretariat shall be responsible for all necessary arrangements regarding the organization of the meetings of the Ad Hoc Working Group.

#### Section V: Languages

##### Rule 12

(a) The working languages of the Ad Hoc Working Group shall be English, French and Spanish.

(b) Speeches made in any of the working languages shall be interpreted wherever possible into the other working languages.

(c) A person appearing before the Ad Hoc Working Group may make a statement in a language other than the working languages. In this case, he shall himself provide for the interpretation into one of the working languages. Exceptionally, when a person appearing before the Ad Hoc Working Group is unable to employ any of the working languages, the Ad Hoc Working Group may agree, when budgetary provisions permit, and in the light of practical possibilities, to use an ad hoc interpreter. Interpretation into the other working languages shall be based on the interpretation into the first working language.

(d) An ad hoc interpreter who is not bound by an oath of office to the United Nations shall be required to swear or declare solemnly that he will interpret honestly, faithfully and accurately the statements made at the meeting.

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Section VI: Voting and conduct of business

Voting

Rule 13

- (a) Each member of the Ad Hoc Working Group shall have one vote.
- (b) Decisions of the Ad Hoc Working Group shall be made by a majority of the members present and voting. For the purposes of these rules, "members present and voting" means members casting an affirmative or negative vote. Members who abstain from voting shall be considered as not voting.
- (c) The Ad Hoc Working Group normally shall vote by show of hands, except that any member may request a roll-call vote, which shall be taken in the English alphabetical order of the names of the members of the Group, it being understood that the Chairman will vote last. The vote of each member participating in any roll-call vote shall be inserted in the report.
- (d) If the vote is equally divided, the proposal shall be regarded as rejected.

Conduct of business

Rule 14

Any procedural question with regard to the voting and conduct of business of meetings of the Ad Hoc Working Group not covered by the present rules shall be dealt with by the Chairman in the light of the rules of procedure of the functional commissions of the Economic and Social Council.

Section VII: Oral and written evidence

Rule 15

- (a) (i) The Ad Hoc Working Group shall request every witness appearing before it for the purpose of giving testimony to make the following solemn declaration:

"I solemnly declare upon my honour and conscience that I will speak the truth, the whole truth and nothing but the truth".
- (ii) In the case of persons who may appear before the Ad Hoc Working Group in an expert capacity, the following declaration shall be made:

"I solemnly declare upon my honour and conscience that my statement will be in accordance with my sincere belief".
- (b) After such a declaration has been made, the Ad Hoc Working Group shall inform the witness of its terms of reference and may put preliminary questions to

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the witness to ascertain his identity and his qualification to give evidence, and also to enable the Ad Hoc Working Group to judge the nature and extent of information possessed by the witness on matters of concern to the Working Group.

(c) Each witness shall then be given an opportunity to make a statement. Any of the members of the Ad Hoc Working Group may then put questions to the witness.

(d) Statements of witnesses shall be heard in private meetings.

(e) The Ad Hoc Working Group may agree not to disclose the identity of a witness at the request of the witness or on its own initiative.

(f) All questioning of witnesses shall be subject to the direction of the Chairman acting under the authority of the Ad Hoc Working Group.

(g) The Ad Hoc Working Group may limit the number of persons desiring to be heard and the time to be allowed to the hearing of any one person.

#### Rule 16

(a) The Ad Hoc Working Group shall decide upon the relevance and upon the use which may be made of the written material and other documentary evidence submitted to it within its terms of reference, in particular of:

- (i) reports of Governments or public or private organizations;
- (ii) legislative and administrative provisions;
- (iii) writings and articles published in the press or elsewhere;
- (iv) evidence submitted in the form of sound-recordings, films, photographs, drawings or other objects;
- (v) anonymous communications, if, in the opinion of the Group the anonymity is justified for personal security reasons.

(b) Written evidence may, at the request of the person submitting it, be presented in such a manner as not to disclose his identity and be made available only to the members of the Ad Hoc Working Group and the Secretariat.

#### Rule 17

The Ad Hoc Working Group may visit any place within Chile as it may decide for the purpose of gathering information relevant to its terms of reference; description of such visits may be annexed to its reports.

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Section VIII: Records

Rule 18

(a) Records of the hearings of witnesses and of other proceedings of the Ad Hoc Working Group will be kept in such form as may be determined by the Group, subject to the provisions in force in the United Nations in this respect and the budgetary appropriations for the Group.

(b) The Ad Hoc Working Group shall decide on the manner in which its records may be distributed and made public.

Section IX: Reports

Rule 19

(a) The Ad Hoc Working Group shall draw up the reports referred to in resolution 8 (XXXI) of the Commission on Human Rights and submit them as provided in the resolution.

(b) If a member desires to abstain from signing either report or to dissent from the whole or any part of either report, such an abstention or dissent shall be recorded in the Group's reports. A statement of the separate position expressed by any member of the Group may be included in a report of the Group if the member in question so wishes.

(c) Upon the submission of the reports by the Group, as required under resolution 8 (XXXI), the Government of Chile may present any observations or comments on either report to the organ to which the report is submitted. The Group shall take such steps as may be possible or appropriate under the resolution to enable the Government of Chile to present such observations or comments.

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Annex III

WORKING PAPER PRESENTED AT THE 3RD MEETING OF THE  
WORKING GROUP, ON 21 MAY 1975, BY MR. SERGIO DIEZ,  
REPRESENTATIVE OF THE GOVERNMENT OF CHILE

1. At its last regular session, the United Nations Commission on Human Rights decided, with the consent of the Government of Chile, to set up an Ad Hoc Working Group, consisting of five of the Commission's members, to inquire into the present situation of human rights in Chile, and to collect oral and written evidence from all appropriate sources.
2. In agreeing to the Working Group's visit, the Government of Chile took into consideration the fact that it was dealing with a United Nations Commission, that its record in the field of human rights was unblemished and that, in the circumstances, Chile was entitled to have the truth made known, having suffered from one of the most unjust and malicious campaigns ever unleashed against it.
3. The sole purpose of this memorandum is to facilitate the Working Group's task in Chile and to avoid any difficulties that might arise from ignorance on the part of the Chilean authorities regarding the Working Group's terms of reference, or ignorance on the part of the Working Group concerning Chilean legislation which, in some way or other, might have a bearing on its work. For this reason, this document is simply a working paper designed solely as a basis of communication between the Working Group and the Chilean authorities.
4. In accordance with the above, the Government of Chile suggests the following procedural rules on which it would like to have the views of the Working Group:

A. Communications or individual complaints

(a) All communications or individual complaints, either orally or in writing, received by the Commission on Human Rights should be handled in accordance with the procedure established by the United Nations for such cases, namely, as laid down in Economic and Social Council resolution 1503 (XLVIII) and resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as no specific agreement has since amended this procedure.

(b) Any communication or complaint accepted by the Working Group will be forthwith transmitted to the competent Chilean authorities or officials so that it can be answered. Should this not be possible, replies will be prepared so that they will reach Geneva no later than 1 December 1975. Similarly, if the Commission receives other communications after the Working Group has concluded its visit, and if such communications are forwarded to the appropriate Chilean bodies before 1 October 1975, they too will be answered before 1 December 1975.

(c) If the Working Group considers that some of the situations which are brought to its attention and which pertain to individual cases should be mentioned in the report, the observations, replies and action taken by the Chilean authorities in connexion with such cases should also be included in the report.

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B. Investigations of a general nature

(a) The Government of Chile will provide the Working Group with all the co-operation it desires, consistent with the Group's powers and competence.

(b) Specifically, the Chilean Government wishes to make it clear that the Group will be able to visit labour, educational and any other centres it considers pertinent to its work, as the situation of these groups has been referred to in studies carried out by the Commission on Human Rights. Obviously, in so far as labour centres are concerned, this suggestion refers only to information with which the Commission believes it is competent to deal, and does not imply a repetition of the investigation recently made by the International Labour Commission.

Similarly, the Working Group will have access to all detention centres it feels it should visit and to any persons deprived of liberty it considers it should question.

(c) The Working Group should question persons deprived of liberty individually and in private, and no restrictions will be imposed other than those stipulated in current Chilean laws. The Government will co-operate with the Group in order to obviate such restrictions as far as possible, although the independence of the judiciary will be respected. For the information of the Working Group, this refers to certain persons held incommunicado by court order following an investigation, since this order can be revoked only by another court order.

There may be no or very few cases of this nature, but even if there are the Government will co-operate with the Commission in requesting that orders under which certain persons are held incommunicado be rescinded.

(d) Persons deprived of liberty who are questioned by the Working Group must declare, on oath, or promise that they are telling the truth.

(e) Should it receive complaints from persons deprived of liberty, the Working Group should request information concerning the facts leading to their detention. For this purpose, the director of each detention centre possesses relevant reports on each detainee. It should also request the judges and the prosecutor to supply any information it deems pertinent and which can be furnished. The Working Group will thus be in a position to judge whether the statements of individuals deprived of liberty are true or false.

(f) The Working Group should use methods for the establishment of proof and investigation that are part and parcel of Chilean legal procedure, and similar to those in the legislation of most countries; it is hoped that information on them will be given to the Working Group.

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(g) The Government of Chile is sure that the Working Group will take into consideration only those sources of information which are sufficiently reliable. That is to say, information from persons or groups of persons whose identity is clearly established and who have direct and reliable knowledge of the facts they present, who act in good faith and are motivated by humanitarian but not political reasons, and who have clear and precise proof to substantiate their assertions.

(h) The Working Group should inform the Chilean authorities or officials as soon as possible of any complaint, situation or fact which it considers should, on account of its relevance, be mentioned in its report, omitting, if it sees fit, the identity of the person making the complaint. In this way, the Government of Chile will have an opportunity, in the presence of the Working Group, to clarify any questions relating to cases, situations, facts or complaints and to submit relevant reports or comments.

### C. General considerations

(a) The Chilean Government, realizing that co-operation between the Working Group and the Chilean authorities is essential, will appoint a committee with sufficient authority and power of decision to collaborate with the Working Group. The Government will request a senior magistrate from the Judiciary to serve on the Commission so that all relations between the Chilean authorities and the Working Group can be maintained through the Committee.

(b) The Government of Chile also understands that, throughout its stay in Chile, the Working Group will transmit to the Government any suggestions it considers appropriate on matters within its competence so that the Chilean authorities can present their views on the subject and so that the primary objective of the visit, which is to clarify situations which appear unusual or unjust, can be attained. To this end, the Chilean Government declares its firm resolve to respect the Group's legal and humanitarian task.

(c) The Government considers that application of the state of siege, in the cases and circumstances laid down in its Constitution and legal system, is a matter within its exclusive competence. Nevertheless, and since in many of the documents available to the Working Group reference is made to the state of siege, the Government deems it advisable that the reasons for its maintenance should be known by the Working Group and particularly those connected with terrorist movements and movements using violent means, their weapons and organization, in so far as there is a cause and effect relationship between the circumstances referred to and some of the restrictions still in force.

(d) All the communications exchanged with the Chilean authorities as well as the official documents submitted to the Working Group should be incorporated in the body of the Working Group's final report.

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(e) The Working Group and the Commission on Human Rights will keep the report confidential until such time as the Commission itself decides to submit recommendations to the Economic and Social Council.

(f) Any communication, request or exchange of information between the Working Group and the Chilean authorities should be in writing.

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Annex IV

LETTER DATED 2 JUNE 1975 FROM THE AMBASSADOR EXTRAORDINARY  
OF CHILE ADDRESSED TO THE CHAIRMAN OF THE AD HOC WORKING  
GROUP, CONCERNING THE RULES OF PRECEDURE ADOPTED BY THE  
GROUP

In connexion with the rules of procedure adopted by the Ad Hoc Working Group appointed by the Commission on Human Rights in pursuance of resolution 8 (XXXI) I ought to make a few specific remarks which, in my opinion, constitute only interpretations of the general rules of procedure of the Group, without prejudice to the comments addressed to you orally and to the Working Group in writing on 21 May last reflecting my Government's points of view.

In the first place, I consider that rule 17 should be interpreted in the sense that the Working Group itself, as master of its own business, will decide what places to visit in Chile. The meaning and scope of the rule do not call for any comment on my part since my Government has offered to the Group freedom of action within the territory for the fulfilment of its terms of reference.

If, however, the Working Group should decide to visit any place connected with national security, it would have to apply for the appropriate official permission; if the visit is connected with places under the jurisdiction of the judicial authority or should involve interviews with members of the judicial authority, the latter's consent would first have to be obtained; and if the visit should involve communications with individuals or bodies of any nature whatsoever, then I understand that the visit will take place with due respect for the normal rights of the said persons or bodies.

In the second place, even though the meaning and scope of rule 16 are clear, I ought to point out to you that in my opinion the said provision does not cover all the aspects relating to the guarantees to which the State of Chile is entitled in the matter to which the rule relates.

In my opinion, Chile, as a sovereign country and even though it has consented to be the subject of an investigation, must have the guarantee that, if the Working Group should decide to include as part of the basis of its report, extracts from oral or written evidence, my country should likewise be offered the opportunity to make whatever comments such evidence may call for, such comments to be also referred to or reproduced in the report, independently of course of the deliberative part or conclusion of the report in question.

The foregoing is, of course, without prejudice to the provisions of rule 19 (c) which, as a guarantee for the Government of Chile, grants facilities only for the formulation of the comments which the report or advance report as a whole may call for on the part of my Government.

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I am sure that we shall agree that this is the meaning of the Working Group's rules of procedure.

I take this opportunity to repeat once again that my Government is pleased to be able to receive the Working Group and to offer it all the co-operation needed for the discharge for its terms of reference.

Accept, Sir, etc.

(Signed) SERGIO DIEZ URZUA  
Ambassador Extraordinary

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Annex V

STATEMENT MADE BY THE CHAIRMAN AT A PRESS BRIEFING GIVEN  
ON 27 JUNE 1975 AT UNITED NATIONS HEADQUARTERS, NEW YORK

The Commission on Human Rights showed considerable concern at its thirtieth session in 1974 on the situation in Chile, as it continued to receive complaints in the field of human rights in that country. The General Assembly in its twenty-ninth session, by a specific resolution towards the end of 1974 referred the question of Chile to the Commission. In the beginning of this year, when the Commission met in its thirty-first session, the Chilean situation was inscribed as a separate item on its agenda. As a result of intensive discussions, the Commission by a resolution adopted by consensus, appointed a Working Group of five, with myself as its Chairman, to collect testimonies, visit that country, inquire into the complaints that were being made, and thereafter to submit a progress report to the forthcoming session of the General Assembly through the Secretary-General and its final report to the thirty-second session of the Commission which is due to meet in February 1976.

The Working Group met in Geneva towards the end of May 1975, adopted its rules of procedure and agreed on its terms of reference, and after hearing some persons who wished to present relevant information, authorized me as the Chairman to record further information in Paris and in New York both from individuals who wished to give evidence, based on what they had witnessed personally in Chile, as also from such non-governmental organizations and individuals, who had any special knowledge or concern about what had happened in Chile.

Each and every member of this Working Group is serving on this Group in his individual capacity. Neither I nor any member of the Working Group has made any press statements, expressing our opinions or views on the situation prevailing in Chile, and we shall refrain to do so, as we are in the process of assessing the situation on the basis of written and oral material.

We will be visiting that country in the beginning of July 1975 with the willing consent of the Government of Chile, who have promised the Working Group all assistance necessary to ensure that the members of the Group are able to interview in Chile whomever they wish and to visit any place they may choose to do.

I wish to make it emphatically clear that we will be visiting Chile with an open mind, without any preconceived ideas or prejudices. Objectivity and strict impartiality shall be the guiding principles of the members of the Group in arriving at their final conclusions. I am confident that we will fulfil the pledge that I have made to the Commission on behalf of the Group that our reports will record the Truth as we shall assess it and nothing but the Truth.

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Annex VI

STATEMENT ISSUED ON 10 JULY 1975 BY THE AD HOC WORKING GROUP  
TO INQUIRE INTO THE PRESENT SITUATION OF HUMAN RIGHTS IN  
CHILE

The Ad Hoc Working Group of the United Nations Commission on Human Rights was entrusted, by a decision of the Commission reached by a consensus of all its members on 27 February 1975, with the responsibility of inquiring into the present situation of human rights in Chile. It is confronted with the sudden and unexpected announcement by the Government of Chile that, contrary to the previously stated and repeated acceptances of this decision by the Government of Chile, the Group will not be permitted at this time to undertake a visit to that country for the fulfilment of the task entrusted to it.

This reversal of the attitude of the Government of Chile was communicated to the Chairman of the Working Group through the Secretary-General of the United Nations and directly through a diplomatic representative of the Government of Chile on 4 July 1975, when he reached Lima /on that date/.

At that time the members of the Group were also travelling from different parts of the world to Lima, as this city had been agreed upon as their meeting point, before entering Chile. Only a week earlier, the Government of Chile had confirmed its acceptance of the visit of the Group to Chile and assured the Secretary-General of its desire to attend to the requirements of the Group in the best possible manner.

On being informed of the decision of the Economic and Social Council of the United Nations approving by consensus the above-mentioned resolution of the Commission on Human Rights, the Government of Chile on 15 May reiterated to the Secretary-General of the United Nations "the assurances of its fullest support of the activities which the Working Group will carry out in its territory in order to discharge its task fully and without delay". As agreed by the Government of Chile, the visit of the Group to Chile was to begin today, 10 July 1975.

The Working Group examined carefully the reasons advanced by the Government of Chile in its communications to the United Nations, in the public statement of General Pinochet on 5 July 1975, as well as by the emissaries which the President of Chile sent on his own initiative to meet with the Chairman of the Group on 8 July. In its considered opinion and on the basis of the information available to it, none of these reasons are of such a nature as would justify the unilateral withdrawal from an agreement to a course of action considered by the competent United Nations organs as conducive to the promotion of human rights in Chile, and to which the Government of Chile had all along been a willing party. The circumstances described as grounds for cancellation of the acceptance or for its indefinite postponement existed at the time the relevant resolutions of the United Nations organs were adopted with the concurrence of the Government of Chile.

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On two occasions since 4 July the Chairman of the Working Group requested the President of Chile, General Pinochet, to reconsider his decision, proposing that the answer to these requests be handed to him not later than on the evening of 9 July. No such answer was received by the Chairman until now.

The Ad Hoc Working Group consists of the present Chairman and the preceding chairman of the Commission on Human Rights, the President of the twenty-eighth session of the General Assembly of the United Nations, a member of the Supreme Court of Justice of his country and a distinguished woman social worker. It is concerned solely, and to the exclusion of all other considerations, with assessing the situation in Chile as regards respect of human rights, in the light of the obligations accepted by the Government of Chile in international instruments concluded under the auspices of the United Nations. Its purpose was to ascertain to what extent human rights are restored in that country, which was stated to be the objective of its present Government. The Group is solely moved by its deep sympathy for the Chilean people, and its wish to do its utmost within its terms of reference, in order that respect for the dignity and worth of the human person should prevail in Chile. Its commitment to go into Chile without any preconceived ideas or prejudices was solemnly affirmed by its Chairman and is fully adhered to by all its members.

It is below the dignity of the Group to answer the implication that the Group may be part of an international political plot against the security or sovereignty of Chile. The fallacy of such a contention is obvious to all those who know its composition and the humanitarian principles on which it wishes to base its work and its conclusions.

The Group considers that it is under obligation to perform as completely as possible the tasks entrusted to it under the resolutions which established it, and to report to the General Assembly, through the Secretary-General, and to the Commission on Human Rights, particularly on the basis of oral and written evidence to be gathered from all relevant sources. It will not be intimidated or deterred in continuing to perform its responsibilities. It regrets deeply the present attitude of the Government of Chile in trying to prevent it from fulfilling its noble task, as fully as the United Nations organs had wished and as the Government of Chile on numerous occasions had agreed.

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Annex VII

STATEMENT MADE ON BEHALF OF THE WORKING  
GROUP AT A PRESS CONFERENCE IN CARACAS  
ON 21 JULY 1975

The Ad Hoc Working Group of the Commission on Human Rights, consisting of Mr. G. Allana of Pakistan, Chairman, who is also Chairman of the Commission on Human Rights; Mr. Leopoldo Benites of Ecuador, ex-President of the General Assembly of the United Nations; Professor Felix Ermacora of Austria, ex-Chairman of the Commission on Human Rights and Member of Parliament of Austria; Justice Abdulaye Dieye of Senegal, a judge of the Supreme Court of Senegal; and Mme Kamara of Sierra Leone, a woman social worker of Sierra Leone, issued the following press statement today, 21 July 1975, in Caracas, Venezuela:

The Ad Hoc Working Group of the United Nations Commission on Human Rights has met since 16 July 1975 in Caracas, Venezuela, in the discharge of the functions entrusted to it by the Commission and the Economic and Social Council, in pursuance of a request endorsed by the General Assembly. These functions consist in inquiring into the present situation of human rights in Chile on the basis of various United Nations resolutions, of a visit to Chile and of oral and written evidence to be gathered from all relevant sources.

In a statement issued on 10 July 1975, while the Ad Hoc Working Group was in Lima, Peru, the Group expressed its deep regret at the decision of the Government of Chile, communicated to it in Lima on 4 July, to withdraw unilaterally its agreement, firmly stated and recorded previously, that the Government of Chile would welcome the Group's visit to Chile in July 1975. The Group affirmed in that statement that it considered it incumbent upon it to continue to collect information from all relevant sources, and to submit reports to the United Nations organs, as provided in the resolution which established it. The information it has received, while in Caracas, has come from representatives from various sectors of the national life of Chile, many of whom had left Chile in recent months, and some in the last few weeks.

As regards the recent declarations of the Government of Chile, through diplomatic channels or through the press, regarding future activities of the Working Group in circumstances which are of that Government's own making, the Group is firmly of the view that the resolution which determines its terms of reference does not give to the Government of Chile the right to determine when the Group should work, whether or not and when it should suspend its activities, and under what conditions it should continue to work on the tasks entrusted to it. The Working Group cannot accept unilateral and unwarranted interpretations of decisions taken by the United Nations, which the Government of Chile has chosen to give in order to suit its own purposes. The Group will, therefore, continue with its task and meet as planned at the United Nations Office at Geneva from 18 to 29 August 1975, in order to draft and approve its progress report in accordance with its mandate, which will be submitted to the Secretary-General for

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transmission to the General Assembly. It will likewise meet in January 1976 in order to draft and approve its final report for submission to the Commission on Human Rights. The Working Group is determined to continue to approach the task entrusted to it with complete objectivity and impartiality. It is confident that the world community will judge the reports of the Working Group on their merits and take such measures as it may deem necessary.

If the Government of Chile so desires, the Working Group will be prepared to receive information, oral or written, relevant to its mandate which the Government of Chile may wish to place before it, provided this is done without putting any obstacles in the way of the work of the Group.

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Annex VIII

LETTER DATED 11 APRIL 1975 FROM THE PERMANENT REPRESENTATIVE OF CHILE  
TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL ORGANIZATIONS AT  
GENEVA, ADDRESSED TO THE DIRECTOR OF THE DIVISION OF HUMAN RIGHTS.

I refer to the conversation which you had a few days ago with Mr. Jaime Lagos, First Secretary of the Permanent Mission of Chile, on the question of the most convenient date for the visit to Chile of the Ad Hoc Working Group set up under resolution 8 (XXXI) of the Commission on Human Rights.

I should like to confirm that, as Mr. Lagos informed you, the Government of Chile suggests that the visit should begin in the first week of July, as originally envisaged, since a number of pending commitments would make it difficult to receive the Group in June as was proposed. During the latter month the Chilean authorities have a very heavy programme of activities, and they are anxious to extend to the Ad Hoc Working Group the fullest facilities for the fulfilment of its task.

Accept, Sir, etc.

(Signed) Abelardo Silva DAVIDSON  
Ambassador  
Permanent Representative of Chile

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Annex IX

NOTE VERBALE DATED 7 MAY 1975 FROM THE SECRETARY-GENERAL  
TO THE PERMANENT REPRESENTATIVE OF CHILE TO THE  
UNITED NATIONS

The Secretary-General of the United Nations presents his compliments to the Permanent Representative of Chile to the United Nations and has the honour to inform His Excellency's Government that at its 1948th meeting the Economic and Social Council approved the decision of the Commission on Human Rights in its resolution 8 (XXXI) to set up an Ad Hoc Working Group to inquire into the present situation of human rights in Chile, within the terms of that resolution. A copy of resolution 8 (XXXI) of the Commission on Human Rights is attached.

The resolution provides inter alia that an Ad Hoc Working Group of five members of the Commission appointed in their personal capacity by the Chairman of the Commission on Human Rights and operating under his chairmanship, shall inquire into the present situation of human rights in Chile on the basis of various resolutions of the United Nations and of specialized agencies, of a visit to Chile and of oral and written evidence to be gathered from all relevant sources. The Commission appealed to the Government of Chile to extend its full co-operation to the Working Group in fulfilling its task, including the granting of all necessary facilities and complete freedom of movement in the country for this purpose. The Ad Hoc Working Group is required to report the results of its inquiry to the Commission on Human Rights at its thirty-second session and to submit a progress report on its findings to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under General Assembly resolution 3219 (XXIX). Thereafter the Ad Hoc Working Group shall cease to exist.

Under the authority given to him in resolution 8 (XXXI) the Chairman of the Commission, Mr. Ghulam Ali Allana (Pakistan), has designated the following personalities to serve under his chairmanship as members of the Ad Hoc Working Group: Mr. Leopoldo Benites (Ecuador), Mr. Abdoulaye Dieye (Senegal), Mr. Felix Ermacora (Austria), Mrs. M. J. T. Kamara (Sierra Leone).

As regards the co-operation which would be extended to the Working Group by the Government of Chile, note was taken of the important statements made on behalf of the Government of Chile by its observer at the thirty-first session of the Commission and by Your Excellency in the Social Committee of the Economic and Social Council. The communication addressed on 11 April 1975 to the Director of the Division of Human Rights by the Permanent Representative of Chile to the United Nations Office and other international organizations at Geneva, indicating that while there may be difficulties for the Chilean Government to receive the Ad Hoc Working Group in June, it would be possible for it to begin its visit during the first week of July was also noted. In this connexion, the Secretary-General wishes to inform His Excellency that taking into account other commitments of certain members of the Group, it is at present envisaged by the Chairman of the Group that the visit to Chile would begin on 10 July 1975.

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Annex X

NOTE VERBALE DATED 15 MAY 1975 FROM THE PERMANENT  
REPRESENTATIVE OF CHILE TO THE UNITED NATIONS  
ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of Chile to the United Nations has the honour to acknowledge receipt of Your Excellency's letter of 7 May 1975, in which you informed him that the Economic and Social Council, at its 1948th meeting, endorsed the decision of the Commission on Human Rights in its resolution 8 (XXXI) to establish an Ad Hoc Working Group to inquire into the present situation of human rights in Chile, in accordance with the provisions of that resolution. You also state in your letter that the visit may begin on 10 July 1975.

The Government of Chile takes note of this decision and reiterates to the Secretary-General of the United Nations the assurances of its fullest support for the activities which the Working Group will carry out in its territory in order to discharge its task fully and without delay.

To further the accomplishment of the above-mentioned activities, contact has been made with the Director of the Division of Human Rights, and the Government of Chile has instructed Ambassador Sergio Díez to go to Geneva to collaborate with the Ad Hoc Working Group in the preparatory meetings which are to be held there.

The Permanent Representative of Chile takes this opportunity to reiterate to the Secretary-General of the United Nations the assurances of its highest consideration.

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Annex XI

TWO LETTERS DATED 17 JUNE 1975 FROM THE PERMENENT REPRESENTATIVE  
OF CHILE TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL  
ORGANIZATIONS AT GENEVA, ADDRESSED TO THE DIRECTOR OF THE  
DIVISION OF HUMAN RIGHTS

A

I have the honour to refer to your letter of 17 June 1975, in which, in connexion with the visit to be made to Chile by the Ad Hoc Group established by resolution 8 (XXXI) of the Commission on Human Rights, you requested certain guarantees in regard to persons who will be in contact with the Group.

In this connexion, I can reiterate to you what Ambassador Díez has told you, namely that persons who are in contact with the aforesaid Group will not be subject to any measures of coercion, sanction or discipline because of such contacts, and that the Government will not institute any judicial action against them on such grounds.

Accept, Sir, etc.

(Signed) Abelardo Silva DAVIDSON  
Ambassador  
Permanent Representative of Chile

B

I have the honour to refer to your letter of 17 June 1975, in which you refer to the facilities, privileges and immunities which the members of the Ad Hoc Working Group established under resolution 8 (XXXI), and the members of the Secretariat accompanying it on its visit, will enjoy in Chile.

In this connexion, I am happy to confirm to you that, in addition to the privileges and immunities to which they are entitled by virtue of the Convention on the Privileges and Immunities of the United Nations, the five members of the aforesaid Group and the members of the secretariat concerned - Mr. Schreiber, Mr. Mazaud, Mr. Marin, Mr. Willemsen Díaz and Miss Tulloch - will enjoy diplomatic privileges and immunities.

As Mr. Lagos has told you personally, the Chilean Embassy in Berne has already been empowered to grant diplomatic visas to the persons in question, and a request will be made that like instructions should be given to the Consulate General of Chile in New York and the Chilean Embassy at Lima.

Accept, Sir, etc.

(Signed) Abelardo Silva DAVIDSON  
Ambassador  
Permanent Representative of Chile

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Annex XII

LETTER DATED 26 JUNE 1975 FROM THE PERMANENT  
REPRESENTATIVE OF CHILE TO THE UNITED NATIONS  
ADDRESSED TO THE SECRETARY-GENERAL

In connexion with the visit to Chile by the Ad Hoc Working Group appointed by the Commission on Human Rights, I have been asked by my Government to request Your Excellency for the official list of the members of the Group and the administrative team that will accompany the Working Group as it discharges its duties, and also the definitive date and duration which the Group agreed upon at its recent meeting in Geneva. The purpose of this request is to make the necessary preparations for the practical aspects of this visit and to attend to the requirements of the members of the Group and its staff in the best possible manner.

At the same time, I wish to inform Your Excellency that the Government of Chile wishes to point out that its acceptance of the Ad Hoc Working Group's visit to its territory constitutes a sovereign decision without precedent in international relations which has been taken with the understanding that at the time of this visit or afterwards the United Nations will adopt the necessary measures to act likewise in countries which for many years have been criticized throughout the world because of their continuing and systematic violation of human rights, such as the Union of Soviet Socialist Republics and Cuba.

I would be grateful for a prompt reply to the above request and I take this opportunity to reiterate to Your Excellency the assurances of my most distinguished consideration and personal regards.

(Signed) Ismael MUERTA  
Vice-Admiral and Ambassador,  
Permanent Representative of Chile  
to the United Nations

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Annex XIII

LETTER DATED 30 JUNE 1975 FROM THE DEPUTY EXECUTIVE ASSISTANT TO THE  
SECRETARY-GENERAL ADDRESSED TO THE PERMANENT REPRESENTATIVE OF CHILE  
TO THE UNITED NATIONS

I have the honour to acknowledge receipt on behalf of the Secretary-General of your letter of 26 June 1975 concerning the visit to Chile of the Ad Hoc Working Group of the Commission on Human Rights which was established under resolution 8 (XXXI) of the Commission. The composition of the Group was communicated to Your Excellency's Government in the Secretary-General's note verbale of 7 May 1975 as follows: Mr. Ghulam Ali Allana (Pakistan), Chairman, Mr. Leopoldo Benites (Ecuador), Mr. Abdoulaye Dieye (Senegal), Mr. Felix Ermacora (Austria), Mrs. M. J. T. Kamara (Sierra Leone). Under the terms of the resolution, all members of the Group serve in their personal capacity.

The names of the members of the staff of the Division of Human Rights accompanying the Group were previously communicated through the Permanent Mission of Chile to the United Nations Office at Geneva. They are as follows: Mr. Marc Schreiber, Director of the Division of Human Rights, Principal Secretary, Mr. Henri Mazaud, Secretary of the Group, Mr. Miguel A. Marin, Mr. Augusto Willemsen Díaz and Miss Yola Tulloch, Secretary. All other personnel including technical staff which is required will be provided by the United Nations Offices in Santiago or will be recruited in the region. Information as to the identity of the persons concerned will be communicated to Your Excellency's Government shortly. As previously notified, the visit of the Group to Chile will begin on 10 July and end on 26 or 27 July.

Due note was taken of the contents of the second paragraph of Your Excellency's note. As the Secretary-General had the honour to inform Your Excellency in his note verbale dated 7 May 1975, the visit of the Group will take place in pursuance of resolution 8 (XXXI) referred to above which was approved by the Economic and Social Council at its 1948th meeting. Your Government expressed its acceptance of the terms of the resolution and of the visit of the Group to Chile in statements made in the Commission on Human Rights and in the Economic and Social Council as well as in the note verbale addressed to the Secretary-General on 15 May 1975. The Secretary-General cannot commit the United Nations organs responsible in the field of human rights as to the action they may take in other specific situations. These organs are seized of questions within their competence in accordance with their rules of procedure and act with respect to such questions in conformity with the functions entrusted to them under the Charter.

Accept, Sir, etc.

(Signed) George HENNIG  
Deputy Executive Assistant to  
the Secretary-General  
/...

Annex XIV

LETTER DATED 9 JULY 1975 FROM OSVALDO SALAS T., SPECIAL DELEGATE  
OF THE GOVERNMENT OF CHILE ADDRESSED TO THE CHAIRMAN OF THE  
WORKING GROUP

REPUBLIC OF CHILE  
MINISTRY OF FOREIGN AFFAIRS  
Embassy at Lima

Lima, 9 July 1975

In view of the request Your Excellency made yesterday that certain documents should be delivered to you to be incorporated in the report which the Working Group you head is preparing and on which, as Your Excellency said, work must go forward, the Government of Chile has instructed me to inform you as follows:

1. As is indicated in the official statement delivered yesterday and for the reasons set forth therein, which I deem unnecessary to repeat since you already know them, the President of the Republic, much to his regret, has had to cancel the visit to Chile by the Working Group of the United Nations Commission on Human Rights until a more auspicious occasion;
2. In keeping with the above, my Government considers that the visit of the Ad Hoc Working Group to Chile is an essential element of the resolution which laid down its terms of reference;
3. Under the circumstances, the Ad Hoc Working Group cannot continue to function. The testimony of exiles or persons opposed to Chile residing abroad and therefore unacquainted with the present situation of respect for human rights that prevails in my country can scarcely serve as a basis for an objective and impartial report to the Commission;
4. Moreover, since the President of the Republic has decided to wait for a more auspicious occasion, continuation of the Group's work would make it impossible to visit Chile at a later date when conditions are more appropriate, thus enabling it fully and completely to discharge the mandate entrusted to it;
5. Furthermore, a report prepared omitting the visit to Chile would be devoid of the most elementary objectivity and would seriously violate the letter and the spirit of the resolution adopted by the United Nations Commission on Human Rights;
6. The foregoing arguments lead to the conclusion that the Working Group over which Your Excellency presides should disqualify itself, for the time being, and so inform the Commission which appointed it.

Accept, Sir, etc.

(Signed) Osvaldo SALAS T.  
Special Delegate of the  
Government of Chile

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Annex XV

ACT CONSTITUTING THE GOVERNMENT JUNTA (DECRETO-LAW No. 1) a/

GOVERNMENT JUNTA OF THE REPUBLIC OF CHILE  
MINISTRY OF NATIONAL DEFENCE, War Department

ACT CONSTITUTING THE GOVERNMENT JUNTA

Decree Law No. 1 - Santiago de Chile, 17 September 1973.

The Commander-in-Chief of the Army, General Augusto Pinochet Ugarte; the Commander-in-Chief of the Navy, Admiral José Toribio Merino Castro; the Commander-in-Chief of the Air Force, Air General Gustavo Leigh Guzmán, and the Director-General of Carabineros, General César Mendoza Durán, being assembled on this date, and

Considering:

1. That the Forces, constitutionally consisting of the Army, Navy, Air Force and Corps of Carabineros, represent the organization with which the State has endowed itself for the preservation and defence of its physical and moral integrity and of its historical-cultural identity;
2. That, consequently, its supreme mission is to ensure, above any other consideration, the survival of the said realities and values, which are the higher and permanent realities and values of Chilean nationhood;
3. That Chile is undergoing a process of systematic and complete destruction of these constituent elements of its being, as a result of the introduction of a dogmatic and exclusive ideology, inspired by the alien principles of Marxism-Leninism;

Have agreed, in fulfilment of the unpostponable duty that such a mission imposes on the organs defending the State, to issue the following Decree Law:

1. As from this date, they constitute themselves as a Government Junta and assume the Supreme Command of the Nation, with the patriotic commitment to restore shattered Chilenidad, justice and institutionality, conscious of the fact that this is the only way to be faithful to the national traditions, to the heritage of the Fathers of the Nation and to the History of Chile, and to enable the development and progress of the country to be directed vigorously along the channels that the dynamics of the present day require of Chile in the context of the international community of which it forms part.

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a/ Diario Oficial, No. 28,653, 18 September 1973.

/...

2. They designate as President of the Junta General Augusto Pinochet Ugarte, who assumes that office as from this date.

3. They declare that the Junta, in the exercise of its mission, shall guarantee the full effectiveness of the powers of the Judiciary and shall respect the Constitution and laws of the Republic to the extent possible in the present situation of the country for best fulfilling the objectives it has set itself. To be registered in the Office of the Controller-General of the Republic, published in the Diario Oficial and inserted in the Official Bulletins of the Army, Navy, Air Force, Carabineros and Investigation Service and in the Official Digest of the Office of the Controller-General.

GOVERNING JUNTA OF THE REPUBLIC OF CHILE. AUGUSTO PINOCHET UGARTE, General, Commander-in-Chief of the Army - JOSE T. MERINO CASTRO, Admiral, Commander-in-Chief of the Navy - GUSTAVO LEIGH GUZMAN, Air General, Commander-in-Chief of the Air Force - CESAR MENDOZA DURAN, General, Director-General of Carabineros.

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Annex XVI

DECREE-LAW NO. 521: CREATION OF THE DIRECTORATE OF  
NATIONAL INTELLIGENCE (DINA) a/

MINISTRY OF THE INTERIOR

CREATION OF THE DIRECTORATE OF NATIONAL INTELLIGENCE (DINA)

No. 521. - Santiago, 14 June 1974. - Having regard to: the provisions of  
Decree Laws No. 1 and No. 128 of 1973, and

Considering the need for the Supreme Government to have the immediate and permanent assistance of a specialized body to provide it with the systematic and duly processed information it may need to do justice to its decisions in the field of national security and development, the Governing Junta has agreed to issue the following:

Decree Law

Article 1. There is created a Directorate of National Intelligence, a military organ of professional, technical character responsible directly to the Government Junta, whose mandate shall be to gather at the national level all information originating in the various fields of action for the purpose of producing the intelligence required for the formulation of policies, planning and adoption of measures designed to protect national security and the country's development.

Article 2. The Directorate of National Intelligence shall be directed by a general or a high-ranking officer of the National Defence Forces in active service appointed by Supreme Decree, who with the title of Director of National Intelligence shall be the principal technical and administrative head of the service. In the exercise of his functions he may adopt the decisions and issue the internal instructions necessary for the functioning of the division.

Article 3. The organization, internal institutional structure and duties of the Directorate of National Intelligence shall be established by a set of Organic Regulations decreed on the proposal of its Director. The staff shall consist of personnel coming from the Institutions of National Defence. Whenever it is necessary to engage personnel not belonging to the Institutions of National Defence, such action must be approved by Supreme Decree, signed in addition by the Minister of Finance. The legal régime and the remunerative levels of such personnel shall be the same as those which apply to the civilian personnel of the Armed Forces.

Article 4. The Director of National Intelligence may request the reports or past documentation that it deems necessary for the efficient fulfilment of his

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a/ Diario Oficial, No. 28,879, 18 June 1974.

duties from any service of the State, municipality, corporate body created by law or enterprise or company in which the State or its enterprises have a financial interest, representation or participation.

If this obligation is not complied with, he may so report to the General Controller of the Republic in order that the latter may apply to the violator directly any of the administrative sanctions envisaged in the statute governing his employment.

Rules providing for secrecy or confidentiality concerning certain matters shall not interfere with the communication to the Directorate of National Intelligence of the requested information or past documentation, without prejudice to imposition on the staff of the Directorate the same obligation of confidentiality or secrecy.

Article 5. The Organic Regulations referred to in the first paragraph of article 3 shall provide that the legal régime and benefits which apply to the personnel of the four Institutions of National Defence and the Investigation Service assigned or seconded to the Directorate of National Intelligence shall be the same as those applying to personnel serving in the National Defence.

Article 6. The annual budget-law shall include, in global terms, the resources necessary for financing the expenditure requested by the Directorate of National Intelligence. Financing for the year 1974 shall be charged to the global sums which the Ministry of Finance shall make available for that purpose to the Directorate of National Intelligence.

Article 7. All imports of complete items of equipment, accessories and other elements effected by the Directorate of National Intelligence shall be free of the specific and ad valorem duties prescribed by the Customs Tariff and from other levies, excise taxes and contributions and, in general, from any duty collected through the intermediary of Customs, as well as from the Shipment Tax prescribed by article 190 of Law No. 16,464 and its amendments and from the 10 per cent levy provided for in article 44 of Law No. 17,564.

Article 8. The following new provision is added to clause (a) of article 19 of Law No. 17,798:

"The procedures to which the preceding clauses refer may also be carried out by the Directorate of National Intelligence in the manner and under the conditions indicated in those provisions."

Sole transitional article. Articles 9, 10 and 11 of this Decree Law shall be published in a restricted annex to the Diario Oficial.

To be registered in the Office of the General Controller of the Republic, published in the Diario Oficial and inserted in the Official Digest of the said Office. - AUGUSTO PINOCHET UGARTE, General, Commander-in-Chief of the Army, President of the Government Junta. - JOSE TORIVIO MERRINO CASTRO, Admiral, Commander-in-Chief of the Navy. - GUSTAVO LEIGH GUZMAN, Air General, Commander-in-Chief of the Chilean Air Force. - CESAR MENDOZA DURAN, Director-General of Carabineros. - OSCAR BONILLA BRADANOVIC, Major General, Minister of the Interior.

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Annex XVII

LISTS OF MISSING PERSONS

Different lists were handed to the Working Group by parties favouring the present Government and by sources other than these. They differ one from the other. The Group has included below two lists of missing persons received, merely as indicative lists, not as lists verified by the Working Group. The Group will make its final conclusions known on the lists received when it submits its final report to the Commission at its thirty-second session.

List A

LIST OF MISSING DETAINEES INCLUDED IN THE DENUNCIATION OF MASSIVE ABDUCTION PRESENTED TO THE FOLLOWING INSTANCES: (1) SANTIAGO COURT OF APPEALS, 28 MAY 1975; (2) SUPREME COURT, 8 JULY 1975 (FIRST PRESENTATION), 6 AUGUST 1975 (SECOND PRESENTATION)

1. Acuña Reyes Rene
2. Acuña Castillo Miguel
3. Aedo Carrasco Francisco
4. Aguilera Peñaloza Arturo
5. Alarcón Jara Eduardo
6. Andreoli Bravo Maria Angélica
7. Andronicos Antequera Jorge Elias
8. Andronicos Antequera Juan Carlos
9. Aliste González Eduardo
10. Aria Vega Alberto
11. Arroyo Padilla Rubén David
12. Aguirre Vásquez Antonio
13. Arévalo Muñoz Victor
14. Alvarado Borgel Maria Inés
15. Baeza Cruces José
16. Barria Araneda Arturo
17. Barrios Barros Juan
18. Beltrán Sánchez Maria Isabel
19. Barrios Duque Alvaro

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20. Binfra Contreras Jacqueline
21. Bueno Cifuentes Carmen
22. Bruhn Fernández Amelia
23. Bustos Reyes Sonia
24. Buzzio Lorca Jaime
25. Cabezas Quijada Antonio
26. Canto Gutiérrez Manuel
27. Carrasco Díaz Mario
28. Carrasco Mátus Carlos Alberto
29. Carreño Aguilera Iván
30. Carreño Navarro Manuel
31. Cáster Lara Manuel
32. Cid Urrutia Washington
33. Contreras González Abundio
34. Contreras Hernández Claudio
35. Cubillos Gálvez Carlos
36. Cortez Joo Manuel
37. Chacón Oliveres Juan
38. Chaer Vázquez Roberto
39. Chanfreau Oyarce Alfonso
40. Chávez Lobos Ismael
41. De Castro López Bernardo
42. Del Canto Ramfrez Guillermo
43. Dockendorff Navarrete Muriel
44. D'Orival Briceño Jorge
45. Durán Rival Luis
46. Elgueta Pinto Martín
47. Espejo Gómez Rodolfo
48. Espinoza Méndez Jorge
49. Espinoza Pozo Modesto
50. Fernández Pavez Sergio
51. Fioraso Chau Albano
52. Flores Araya José

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53. Flores Pérez Julio
54. Fuentes Riquelma Luis Fernando
55. Gaeta Parías Gregorio
56. Garay Hermosilla Héctor
57. Gallardo Agüero Néstor
58. Guendelman Wisniak Luis Alberto
59. González Fernández Héctor
60. González González Luis
61. González Mella Luis
62. González Nuñez Claudio
63. González Pérez Rodolfo
64. González Inostroza María Elena
65. González Inostroza Hernán Galo
66. Gómez Cerda Luis Alberto
67. Guajardo Zamorano Luis Julio
68. Heredia Vásquez Miguel
69. Herrera Cofré Jorge
70. Herrera Villegas José Manuel
71. Huaiguiñir Benavides Joel
72. Ibarra Toledo Juan
73. Jara Castro José
74. Jorquera Encina Mauricio
75. Joui Petersen María Isabel
76. Eltyt Contreras María Teresa
77. Labrador Urrutia Ramón
78. Lagos Cid Luis
79. Lagos Hidalgo Sergio Humberto
80. Lagos Marín Sergio
81. Lagos Marín Ogán
82. Lara Pétrovich Eduardo
83. Lazo Lazo Ofelio
84. Llanca Iturra Mónica
85. Lobos Gutiérrez Luis

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86. López Diaz Violeta
87. López Stewart Maria
88. Machuca Muñoz Zacarías
89. Martínez Victor
90. Martínez Hernández Eugenio
91. Martínez Meza Agustín
92. Maturana Pérez Juan
93. Maturana Pérez Washington
94. Marchant Villaseca Rodolfo
95. Merino Molina Pedro
96. Mímica Argote Gregorio
97. Miranda Lobos Eduardo
98. Moreno Fuenzalida Germán
99. Morales Chaparro Edgardo
100. Morales Saavedra Newton
101. Montecinos Alfaro Sergio
102. Müller Silva Jorge
103. Muñoz Rodriguez Luis
104. Molina Mogollones Juan
105. Negrete Peña César
106. Neira Muñoz Merta
107. Núñez Espinoza Ramón
108. Ojeda Jara Jorge
109. Olivares Graindorge Jorge
110. Ortiz Moraga Jorge
111. Palominos Bonítez Vicente
112. Peña Solari Mario Fernando
113. Palominos Rojas Luis Jaime
114. Peña Solari Nilda Patricia
115. Pérez Godoy Pedro Jugo
116. Pérez Vargas Carlos Freddy
117. Poblete Córdoba Pedro
118. Pizarro Meniconi Isidro

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119. Quiñones Lembach Marcos Esteban
120. Radrigán Plaza Anselmo
121. Ramírez Gallegos Julieta
122. Ramírez Rosales José
123. Retamales Briceño Asrael
124. Reyes González Agustín
125. Reyes Navarrete Sergio
126. Reyes Piña Daniel
127. Riffo Ramos Sergio
128. Ríos Soto Herbit
129. Ríos Videla Hugo
130. Riveros Villavicencio Sergio
131. Rojas Castañeda Alfredo
132. Rozas Contador Francisco
133. Salcedo Morales Carlos
134. Salinas Argomedo Ariel
135. Sandoval Rodríguez Miguel
136. Santibañez Estay Ariel
137. Sarmiento Sábater Hernán
138. Silva Cámos Fernando
139. Silva Peralta Claudio
140. Silva Saldívar Gerardo
141. Sepúlveda Guajardo Renato
142. Silva Silva Luis
143. Soto Cerna Antonio
144. Tapia Martínez Julio
145. Toro Romero Enrique
146. Torres Albornoz Osvaldo
147. Troncoso Muñoz Ricardo
148. Ugas Morales Rodrigo Eduardo
149. Urbina Chamorro Gilberto
150. Uribe Tamblay Bárbara
151. Vallejos Villagrán Alvaro

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152. Valladares Caroca Oscar
153. Valenzuela Figueroa Luis
154. Vásquez Sáenz Jaime
155. Van Urich Altamirano Edwin
156. Vera Almarza Ida
157. Vera Figueroa Sergio
158. Vergara Doxrud Héctor
159. Villagra Astudillo José
160. Villarroel Ganga Victor
161. Villalobos Diaz Manuel
162. Ziede Gómez Eduardo
163. Zuniga Tapia Héctor Cayetano
164. Olmos Guzmán Gary Nelson

List B

1. LIST OF PERSONS WHICH APPEARED IN THE NEWSPAPER EL MERCURIO  
ON 23 JULY 1975 REPRODUCING INFORMATION FROM THE WEEKLY  
MAGAZINE LEA OF BUENOS AIRES

1. Acuña Reyes, Reñe Roberto
2. Aguilera Peñaloza, Arturo
3. Andronico Antequera, Jorge
4. Arroyo Padilla, David
5. Arevalo Muñoz, Victor
6. Alvarado Borgel, Maria Ines
7. Binfa Contreras, Jacqueline Del C.
8. Bueno Cifuentes, Carmen
9. Bustos Reyes, Sonia
10. Cabezas Quijada, Antonio
11. Carrasco Diaz, Mario
12. Contreras Gonzalez, Alejandro
13. Cubillos Galvez, Carlos
14. Chacon Olivares, Juan
15. Chaer Vasquez, Roberto

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16. Chanfreau Oyarce, Alfonso
17. De Castro Lopez, Bernardo
18. Dockendorff Navarrete, Muriel
19. Drouilly Jurich, Jacqueline
20. Elgueta Pinto, Martin
21. Espinoza Mendez, Jorge
22. Flores Perez, Julio
23. Fuentes Riquelma, Luis
24. Gaete Farias, Gregorio
25. Garay Hermosilla, Hector
26. Gallardo Aguero, Nestor
27. Gajardo Wolf, Carlos
28. Gonzalez Insotroza, Maria Elena
29. Ibarra Toledo, Juan
30. Jorquera Encina, Mauricio
31. Labrador Urrutia, Ramon
32. Lagos Hidalgo, Sergio
33. Lara Petrovic, Eduardo
34. Lopez Diaz, Violeta
35. Machuca Muñoz, Zacarias
36. Muñoz Andrade, Leopoldo
37. Martínez Meza, Agustin
38. Miranda Lobos, Eduardo
39. Morales Chaparro, Edgardo
40. Montecinos Alfaro, Sergio
41. Neira Muñoz, Marta
42. Ortiz Moraga, Jorge
43. Palominos Benitez, Vicente
44. Palominos Rojas, Luis Jaime
45. Peña Solari, Nilda
46. Poblete Cordova, Pedro
47. Quinones Lembach, Marcos
48. Radrigan Plaza, Anselmo

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49. Reyes Navarrete, Sergio
50. Reyes Piña, Daniel
51. Sandoval Rodriguez, Miguel
52. Silva Peralta, Claudio
53. Silva Zaldivar, Gerardo
54. Tello Garrido, Teobaldo
55. Urbina Chamorro, Gilberto
56. Salinas Eytel, Marcelo
57. Ugas Morales, Rodrigo
58. Villarroel Gangas, Victor
59. Villalobos Diaz, Manuel
60. Ziede Gomez, Eduardo

2. LIST OF PERSONS MENTIONED IN INFORMATION GIVEN BY RADIO "BALMACEDA" ON  
24 JULY 1975 REPRODUCING INFORMATION FROM THE NEWSPAPER O DIA OF BRAZIL

1. Aedo Carrasco, Francisco
2. Acuña Castillo, Miguel
3. Arias Vega, Alberto Bladdmir
4. Andronico Antequera, Juan Carlos
5. Andreoli Bravo, Maria Angelica
6. Alarcon Jara, Eduardo
7. Bustillos Cereceda, Maria Teresa
8. Buzzio Lorca, Jaime Mauricio
9. Barrias Araneda, Arturo
10. Bravo Nuñez, Francisco Javier
11. Calderon Tafla, Mario Edgardo
12. Contreras Fernandez, Claudio
13. Castro Salvadores, Cecilia Gabriela
14. Chavez Lobos, Ismael Dario
15. Cortes Joo, Manuel
16. Cid Urrutia, Washington
17. Duran Rivas, Luis Eduardo
18. D'Orival Briceño, Jorge Humberto

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19. De La Jara Goyemeche, (Melisa) Felix
20. Espinoza Pozo, Modesto Segundo
21. Espejo Gomez, Rodolfo Alejandro
22. Eltit Contreras, Maria Teresa
23. Fioraso Chau, Albano Agustin
24. Guajardo Zamorano Luis Julio
25. Gonzalez Perez Rodolfo Valentin
26. Garcia Vega, Alfredo Gabriel
27. Gonzalez Inostroza, Hernan Galo
28. Herrera Cofre Jorge Antonio
29. Jara Castro, José Hipolito
30. Joui Petterson Maris Isabel
31. Lopez Steward Maria Cristina
32. Lazo Lazo Ofelia de la Cruz
33. Llanca Iturra Monica
34. Molina Mogollones Juan Rene
35. Marino Molina Pedro Juan
36. Moreno Fuenzalida German
37. Marchant Villaseca, Rodolfo
38. Martinez Hernandez, Eugenia
39. Maturana Perez, Juan Bautista
40. Nuñez Espinoza, Ramon Osvaldo
41. Olivares Graindorge, Jorge Alejandro
42. Olmos Guzman, Gary Nelson
43. Peña Solari, Mario Fernando
44. Pizarro Meniconi, Isidro Miguel Angel
45. Perez Vargas, Carlos Fredy
46. Perelman Ide Juan Carlos
47. Retamales Briceño Asrael Leonardo
48. Reyes Gonzalez Agustin Eduardo
49. Robotham Bravo, Jaime Eugenio
50. Rios Videla, Hugo Daniel
51. Salcedo Morales, Carlos Eladio

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- 52. Salinas Argomedo, Ariel
- 53. Silva Camus Fernando
- 54. Toro Romero Enrique
- 55. Uribe Tamblay Barbara
- 56. Van Yurick Altamirano Edwin
- 57. Villagra Astudillo, José Caupolican
- 58. Vasquez Saez, Jaime
- 59. Zuñiga Tapia, Hector

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