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QUESTION OF HUMAN RIGHTS IN CHILE

Report of the Expert on the Question of the Fate
of Missing and Disappeared Persons in Chile
appointed pursuant to resolution 11 (XXXV) of
the Commission on Human Rights

GE.80-10377

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
INTRODUCTION	1 - 12	1
<u>Chapter</u>		
I. RECENT INFORMATION ON MISSING PERSONS IN CHILE	14 - 65	6
A. Information concerning persons missing in 1973 ...	20 - 37	8
1. Cases of missing persons dealt with in the report to the Assembly	21 - 28	8
(a) Individual cases	21	8
(i) Jorge Klein Pipper	21	8
(ii) Fernando de la Cruz Olivares Mori	21	8
(iii) Bautista van Schouwen Vasey	21	8
(b) Group cases	22 - 28	9
(i) Report of missing persons and the discovery of bodies at Cuesta Barriga	23	9
(ii) Lonquén: Missing persons from the Maureira, Astudillo and Hernández families	24 - 25	9
(iii) Disappearances in Osorno and nearby towns	26	10
(iv) Disappearance of 20 persons in Laja and the discovery of bodies buried at Yumbel cemetery	27 - 28	10
2. Cases of missing persons not dealt with in the report to the Assembly	29 - 37	11
(a) Persons missing in Paine and the discovery of numerous unidentified graves at the Santiago cemetery	30 - 33	12
(b) Missing persons from Mulchén and the discovery of hidden graves	34 - 35	13
(c) Investigation by the Special Judge of Temuco	36	14
(d) Arrests and executions in Osorno: Declaration of Mrs. Blanca Ester Valderas Garrido	37	15

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
B. Persons missing during the period 1974-1977	38 - 65	16
1. Cases in 1974	40 - 42	16
(a) The "119" missing persons	41	16
(i) Bárbara Uribe Tambley and Edwin van Jurick Altamirano	41	17
(ii) Martín Elgueta Pinto, Juan Chacón Olivares and María Inés Alvarado Borgel	41	17
(b) Other 1974 cases	42	17
(i) David Silberman Gurovich	42	17
(ii) Guillermo Roberto Beausire Alonso	42	17
2. New information relating to 1974	43 - 48	17
(a) Arrest and disappearance of Alvaro Modesto Vallejos Villagran	44 - 46	18
(b) Arrest and disappearance of Carlos Alberto Carrasco Matus	47 - 48	21
3. Cases in 1975	49 - 52	21
(a) The eight persons arrested in Valparaíso in January 1975	50	21
(b) Carlos Enrique Lorca Tobar and Modesta Carolina Wiff Sepulveda	51	22
(c) Luis Hernán Trejo Saavedra, Alejandro Juan Avalos Davidson and José Ramón Ascencio Subiabre	52	22
4. Cases in 1976	53 - 58	22
(a) Five persons arrested at 1587 Calle Conferencia	54	22
(b) Carlos Humberto Contreras Maluje	55	22
(c) Victor Manuel Díaz López	56	23
(d) Marta Lidia Ugarte Román	57	23
(e) Thirteen persons who disappeared in November-December 1976	58	23
5. New Information relating to 1976	59 - 64	23
(a) Discovery of a number of badly decomposed and mutilated bodies in 1976	60 - 63	23
(b) The case of Carmelo Soria Espinoza	64	25

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
6. Cases in 1977	65	25
(a) Vicente Israel García Ramirez	65	25
(b) Jorge Andrés Troncoso Aguirre	65	25
II. WOMEN WHO DISAPPEARED AT A TIME WHEN THEY WERE PREGNANT AND CHILDREN BORN IN DETENTION	66 - 67	26
A. María Cecilia Labrín Sazo	66	26
B. Gloria Ester Lagos Nilsson	66	27
C. Cecilia Miguelina Bojanic Abad	66	27
D. Jacqueline Paulette Drouilly Yurich	66	28
E. Michelle Peña Herreros	66	28
F. Nalvia Rosa Mena Alvarado	66	29
G. Reinalda del Carmen Pereira Plaza	66	29
III. ROLE OF INDIVIDUALS, PRIVATE ORGANIZATIONS, THE PRESS, THE GOVERNMENT AND THE JUDICIARY IN THE DISAPPEARANCE OF PERSONS IN CHILE	68 - 87	31
A. Role of individuals and private organizations	68	31
B. Role of the press	69	31
C. Role of the Government	70 - 83	31
The DINA and missing persons	72 - 83	32
D. Role of the Judiciary	84 - 86	37
IV. THE RESPONSIBILITY OF THE GOVERNMENT OF CHILE UNDER INTERNATIONAL LAW	87 - 89	39
V. CONCLUSIONS AND RECOMMENDATIONS	90 - 96	41
A. Conclusions	90 - 93	41
B. Recommendations	94 - 96	42

INTRODUCTION

1. The present report brings up to date the information contained in the report of the Expert on the Question of the Fate of Missing and Disappeared Persons in Chile 1/ transmitted to the General Assembly at its thirty-fourth session and it is intended to be read in conjunction with that report.
2. The Expert's report to the General Assembly contained information on the resolutions of the General Assembly and the Commission on Human Rights pursuant to which Mr. Felix Ermacora and Mr. Waleed M. Sadi were appointed as experts in their individual capacity to study the question of the fate of missing and disappeared persons in Chile. The Experts were requested by Commission on Human Rights resolution 11 (XXXV) to report to the Commission at its thirty-sixth session and, through the Special Rapporteur on the situation of human rights in Chile, 2/ to the General Assembly at its thirty-fourth session. The report to the General Assembly also reflected the resignation as an Expert of Mr. Waleed M. Sadi and the decision of Mr. Felix Ermacora to continue to carry out the study entrusted to him by the Commission. 3/ The decision of the Expert to continue to carry out the study was reached in full consultation with the Chairman of the Commission of Human Rights and, at the request of the Chairman of the Commission, the Division of Human Rights informed the Representative of the Commission of Mr. Sadi's resignation and my decision to continue with the study.
3. In connexion with its consideration of the report of the Expert on the Question of the Fate of Missing and Disappeared Persons in Chile, the General Assembly at its thirty-fourth session had before it a document entitled "Considerations of the Government of Chile on the examination of the present situation of human rights in the country", 4/ transmitted by the Permanent Representative of Chile to the United Nations. At its 69th meeting on 5 December 1979, the Third Committee adopted for recommendation to the General Assembly a draft resolution entitled "Human Rights in Chile". The General Assembly at its 106th meeting on 17 December 1979 adopted the draft resolution as recommended by the Committee as resolution 34/179 by a recorded vote of 96 to 6 with 33 abstentions.
4. With regard to the question of the fate of missing persons in Chile, the General Assembly in its resolution 34/179 expressed its deep concern about recent reports regarding the discovery in the main cemetery of Santiago de Chile of hundreds of unmarked graves believed to contain the remains of victims of political executions, and it expressed its hope that the judicial investigation initiated to determine the origins of these graves would be carried out without hindrance. The Assembly also noted with particular concern that the Chilean authorities have failed to take urgent and effective measures as requested in its resolution 33/175 to investigate and clarify the fate of persons reported to have disappeared for political reasons. Although noting that no persons are reported to have disappeared in Chile during 1978 and 1979, the Assembly expressed its deep

1/ A/34/583/Add.1.

2/ Appointed pursuant to paragraph 6 (a) of Commission on Human Rights resolution 11 (XXXV).

3/ A/34/583/Add.1 paras. 1-3.

4/ A/C.3/34/12.

concern that the numerous persons who disappeared between September 1973 and the end of 1977 and whose whereabouts are still unknown, present a continuous situation of gross and flagrant violations of human rights. The Assembly urged the Chilean authorities to investigate and clarify the fate of persons reported to have disappeared for political reasons, to inform relatives of the outcome, and to institute criminal proceedings against those responsible for such disappearances and to punish those found guilty.

5. Also in its resolution 34/179, the Assembly reiterated its indignation at the continued violation of human rights in Chile, and concluded that it should continue to exercise vigilance with regard to the situation of human rights in that country. The Assembly requested the Commission on Human Rights at its thirty-sixth session to study thoroughly the report of the Special Rapporteur and the report of the Expert on missing and disappeared persons. Further, the Assembly invited the Commission on Human Rights to continue to give close attention to the situation in Chile and to that end, inter alia to consider further at its thirty-sixth session the most effective ways of clarifying the whereabouts and fate of missing and disappeared persons in Chile, taking into account the contents of the report prepared by the Expert on missing and disappeared persons. The Assembly urged the Chilean authorities to co-operate with the Special Rapporteur and the Expert on missing and disappeared persons.

6. With regard to the question of missing persons in general, the Assembly in its resolution 34/179 called the attention of the Commission on Human Rights to the recommendations in the report of the Expert on missing and disappeared persons in Chile, when pursuing the question of disappeared persons as requested by General Assembly resolution 33/173 and when considering resolution 5 B (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In this connexion General Assembly resolution 34/178 of 17 December 1979 entitled "The right of amparo, habeas corpus or other legal remedies to the same effect" may also be noted. In that resolution the Assembly expressed its conviction that the application within the legal system of States of amparo, habeas corpus, or other legal remedies to the same effect, is of fundamental importance for, inter alia, clarifying the whereabouts and fate of missing and disappeared persons and the Assembly called upon all Governments to guarantee to persons within their jurisdiction the full enjoyment of the right of amparo, habeas corpus, or other legal remedies to the same effect, as may be applicable in their legal system.

7. In the above-mentioned document entitled "considerations of the Government of Chile on the examination of the present situation of human rights in the country" 5/ transmitted to the General Assembly by the Permanent Representative of Chile to the United Nations, the Government of Chile again raised objections to the decisions of the General Assembly and the Commission on Human Rights to establish special procedures for dealing with the question of human rights in that country. 6/ The legal aspects of the position of the Government of Chile on the competence of the

5/ A/C.3/34/12.

6/ Ibid., Chapter II, paras. 1-8.

General Assembly and the Commission on Human Rights to select what those organs consider appropriate procedures for dealing with situations of violations of human rights were examined in the report of the Expert to the General Assembly 7/ and in the report to the General Assembly of the Special Rapporteur on the situation of human rights in Chile. 8/ In regard to the renewal by the Government of Chile of its objections, the Expert wishes to refer to the analysis contained in the above-mentioned reports to the General Assembly. 9/

8. The Government of Chile, also in the above-mentioned document, objected to the fact that only one expert carried out the study of missing persons in Chile. The Government argued that since two experts were appointed pursuant to Commission on Human Rights resolution 11 (XXXV) to study the fate of missing persons in Chile, the report to the General Assembly should by necessity have been signed by both of them, regardless of whether they were in agreement with each other. The fact that only one expert undertook the study and signed the report was, in the Government's view, a clear violation of the Commission's resolution. 10/ In this regard it should be noted that nothing in Commission resolution 11 (XXXV), in the summary records of the Commission's discussion leading to the adoption of that resolution 11/ nor in the Commission's report to the Economic and Social Council 12/ suggests that it was the intention of the Commission to establish a group of two experts. Rather, the Commission provided for the appointment of two persons "as experts in their individual capacity" to carry out the study, and, although they were expected to co-operate in a manner which they considered appropriate in their task, under the Commission's resolution the competence of one expert does not necessarily depend upon that of the other. Further, it could not have been the intention of the Commission on Human Rights that the study should be frustrated by the resignation of one of the experts. In this regard, it may be noted that Mr. Sadi, in his letter of resignation stated he was doing so "in order to avoid frustrating the work of the experts". 13/ Finally, as mentioned above, the decision to continue the study after the resignation of Mr. Sadi was taken in full consultation with the Chairman of the Commission on Human Rights and the Commission's members were informed. It would thus appear that no legal bases exist for concluding that after the resignation of Mr. Sadi the fact that, only the remaining expert signed the report to the General Assembly constitutes a violation of Commission resolution 11 (XXXV).

9. With regard to the substance of the question of the fate of missing persons in Chile the Government of Chile in its above-mentioned considerations on the examination of the present situation of human rights in that country stated as follows:

7/ A/34/583/Add.1, paras. 6-7.

8/ A/34/583, paras. 1-13.

9/ A/34/583, paras. 1-13 and A/34/583/Add.1, paras. 6-7.

10/ A/C.3/34/12, chapter II, para. 6.

11/ E/CN.4/SR.1506, 1508.

12/ E/1979/36.

13/ A/34/583/Add.1, para. 3.

"All cases of persons who have allegedly disappeared are brought before the courts of justice, which by law are the only bodies empowered to investigate them. The respective judges, high-ranking members of the bench, have express instructions from the Supreme Court to make exhaustive investigations of each such case. The Executive Power, for its part, co-operates fully with the Courts in the action taken by the latter, and accordingly respects their decisions. Thanks to these measures, such cases are gradually being clarified. The national press reports in detail on the course and development of the proceedings." 14/

The present report contains information relating to this statement.

10. With a view to the preparation of the present report a letter dated 10 January 1980 was addressed to the Permanent Representative of Chile to the United Nations Office at Geneva in which the Government of Chile was informed that the Expert in Missing Persons in Chile was ready to meet with representatives of the Chilean Government if the Government wished to provide information or exchange views relative to the subject of the Expert's mandate. The Permanent Representative of Chile in a response dated 15 January 1975 reiterated the position of the Government of Chile that it would not accept ad casum actions or procedures and that the Government reaffirms its intention to comply with universal and generally applicable procedures only after the special procedures have been exhausted.

11. The present report is based on information gathered by the Expert, information submitted to him and hearings held during January 1980. The Expert received information from two sources which has proved particularly valuable for understanding during the relevant period, arrest and detention for political or national security reasons in Chile, the treatment of detainees and finally the fate of missing persons. One such source was information supplied by a person who reports being closely connected with the Executive Branch of Government in Chile for some years. The Expert was able to check the information so supplied against his own knowledge gained during his visit in July 1978 to that country as a member of the Ad Hoc Working Group on Chile and with other sources of information. In particular, the Expert was able to verify information that only a person in the position which this source reports holding would have had access to. The Expert is convinced that this source has accurate information on missing persons in Chile including the whereabouts of the remains of persons listed as missing. To protect this source's personal security elements of identity and details susceptible to lead to identification have been kept confidential by the Expert. 15/

12. Another specific source of information of particular value was the testimony given at a public hearing in the Third Civilian Chamber of the Land Court of Bonn, Federal Republic of Germany, on 30 October 1979 in the suit by Colonia Dignidad against Amnesty International. At that hearing Mr. Samuel Enrique Fuenzalida Devia

14/ A/C.3/34/12, Chapter I, para. 4.

15/ See Chapter V, Conclusions and Recommendations, para. 96.

stated that in 1973 while he was performing his military service (from April 1973 to March 1975) he was transferred after September 1973 to the DINA where he served until 1975. Mr. Fuenzalida testified principally concerning Colonia Dignidad^{16/} and he reported having taken there a person known as "Loro Matías". Loro Matías has been identified as Alvara Modesto Vallejos Villagran, listed as a missing person. (See below paras. 44-46.) Subsequent to this testimony the Government of Chile reported that, as a result of a check by the CNI (Centro Nacional de Informaciones) of the files of the ex-DINA that were in the CNI's possession, "it had been established that Samuel Enrique Fuenzalida Devia had not belonged to DINA". According to a Government certificate Fuenzalida performed his military service from April 1973 to March 1975. In this regard the Expert notes that there were two types of DINA personnel, those coming from the Institutions of National Defense (Army, Navy, Air Force, Carabineros) and persons not belonging to such Institutions and recruited directly by the DINA.^{17/} The Ad Hoc Working Group on Chile reported that the vast majority of the staff of DINA are active members of the various branches of the armed forces or the Carabineros.^{18/} A strict reading of the information supplied by the Government does not, in the Expert's view, exclude the possibility that Mr. Fuenzalida, while not having been directly contracted by DINA, was in fact placed at DINA's disposal by the Chilean Army. The Expert also notes the statements by the Director of the DINA and the Minister of the Interior that the identities of intelligence agents must be kept secret.^{19/}

13. The Commission on Human Rights at its thirty-sixth session also has before it Case Reports on missing persons in Chile, document E/CN.4/1381, prepared by the Expert and which provide information from a wide range of relevant sources in more detail than in the present report or in the Expert's report to the General Assembly. Where the present report deals with a case of a missing person contained in the Case Reports an appropriate reference is made.

^{16/} Colonia Dignidad was described in the report of the Ad Hoc Working Group on Chile to the Commission on Human Rights at its thirty-second session (E/CN.4/1188, para. 129) as a large agricultural and cattle farm near the town of Parral in the province of Linares, which includes land in the Andes mountains right up to the Argentine border.

^{17/} Decree-Law No. 521, of 18 June 1974, article 3, see A/10285, Annex XVI.

^{18/} A/31/253, para. 345.

^{19/} A/34/583/Add.1, para. 148. Note may also be made of the certificates supplied by the Government of Chile which subsequently proved to be inaccurate. See A/34/583/Add.1, paras. 63, 70, 152, 125-127 and A/33/331, para. 399 and Annex XLV.

I. RECENT INFORMATION ON MISSING PERSONS IN CHILE

Introduction

14. The information concerning missing persons in Chile which has become available since the Expert's report was presented to the General Assembly deals principally with the finding of new graves of persons who disappeared in 1973 and with the actions of the carabineros, the military forces and the DINA which led to the disappearance of detainees in 1973 and afterwards. This new information also includes decisions of which civilian judges charged with investigating missing persons, by which they determine that they lack jurisdiction to continue their investigations because of the involvement of military personnel. As a result the cases are transferred to the military courts. With regard to the information presented in the report to the General Assembly, 1/ it is maintained subject to any modifications or additions contained in the present report.

15. The growing concern of international organizations with the question of missing persons in general and with missing persons in Chile, including that of the former Ad Hoc Working Group on Chile, was reflected in chapters I and II of the report to the General Assembly. The Governing Body of the International Labour Organisation at its two hundred and eleventh session in November 1979, acting upon a recommendation of the Committee on Freedom of Association, continued that organization's consideration of the imprisonment and disappearance of trade union leaders or members by requesting the Chilean Government to continue to supply information on the outcome of the proceedings under way and, in general, on the persons mentioned in the list drawn up by the Committee in its 177th Report. 2/ The missing persons mentioned in that list are also reflected in the lists of missing persons prepared by various organizations including the Ad Hoc Working Group on Chile 3/ and on which the Expert's reports are based.

16. In June 1979 the Parliamentary Assembly of the Council of Europe recommended (recommendation No. 868) that the Committee of Ministers of the Council of Europe invite the governments of member States to support the creation of an international commission of enquiry to investigate the fate of missing political persons in Chile which would report to the United Nations Commission on Human Rights and to urge the Chilean authorities in the strongest terms to obtain inter alia information on the fate of the missing persons. The Assembly also adopted an order (No. 381) which instructed the President of the Assembly to inform the Chilean Government of its deep concern about the fate of political prisoners and particularly those who are missing, emphasizing the families' right to be informed of the fate of their missing members, after arrest or detention by the security forces. 4/

1/ A/34/583/Add.1

2/ ILO document GB.211/12/10, para. 432, recommendations approved by the Governing Body at its two hundred and eleventh session, November 1979.

3/ A/32/227, Annex LV.

4/ See Council of Europe document, AS/PER(31)PV.1 dated 24 August 1979.

17. The Inter-American Commission on Human Rights in its report to the ninth session of the General Assembly of the Organization of American States (La Paz, Bolivia, October 1979) dealt with the disappearance of persons in countries of the region and recommended prompt clarification of the status of persons who have disappeared. 5/ With regard to Chile the Inter-American Commission recommended that the Government adopt those measures necessary to clarify the situation of the missing detainees swiftly and definitively. 6/ The General Assembly of the Organization of American States, in resolutions adopted at its ninth session, declared that the phenomenon of disappearances was a stain on the conscience of the Hemisphere and totally contrary to commonly-held traditional values and to the declarations and agreements signed by the American States, and it supported the Commission's recommendation concerning the rapid clarification of the position of persons who had disappeared in the circumstances described in the annual report. 7/ The General Assembly of OAS also urged those States in which persons had disappeared to refrain from promulgating or applying laws which might hinder investigations into such disappearances. 8/

18. With regard to Chile, the General Assembly of the Organization of American States, at its ninth session, adopted a resolution in which it decided to urge the Government of Chile to speed up the adoption and implementation of the measures necessary for effective protection and guarantee of the full enjoyment of human rights in Chile, particularly with regard to clarification of the position of detainees and disappeared persons, the return of exiles to their homeland, the derogation of the state of emergency and the rapid restoration of the right to vote. 9/

19. The report of the Expert to the General Assembly clearly showed the dual nature of the problem of missing persons in Chile. 10/ On the one hand the problem is one of respect for the human rights of the missing persons and on the other of the humanitarian need of the relatives of the missing persons to know their whereabouts and fate. In this latter sense it is easy to see that the problem extends beyond that of the missing persons themselves to the many thousands of their relatives who are directly and continually affected.

5/ OAS document OEA/Ser.P AG/doc.1101/79, section Two, Part II.

6/ Ibid., section four.

7/ Resolution entitled "Annual Report of the Inter-American Commission on Human Rights", reproduced in document OEA/Ser.L/V/II.48 doc. 6, dated 21 November 1979, of the Inter-American Commission on Human Rights.

8/ Resolution entitled "Promotion of Human Rights", ibid.

9/ Resolution entitled "Annual Report of the Inter-American Commission on Human Rights", supra.

10/ A/34/583/Add.1, paras. 46 and 165-177.

A. Information concerning persons missing in 1973

20. The Expert's report to the General Assembly contained information on the military pronunciamiento of 11 September 1973, the large scale arrests which followed, the exercise by many authorities in particular the military authorities and Carabineros of the special emergency powers of arrest limited by the Constitution to the President, the failure to keep records of arrests and detentions and summary executions. The report also reflected the estimated 40,000 to 50,000 persons who were detained in the period following the pronunciamiento and the 247 strongly documented cases of missing persons reported by the Vicaría de la Solidaridad. 11/ Information received since the report was presented to the Assembly indicates that the number of cases of missing persons for 1973 should be increased, since, as is reflected below, new information has been received about persons who disappeared in 1973 12/ but whose disappearance had not previously been reported.

1. Cases of missing persons dealt with in the report to the Assembly

(a) Individual cases

21. The report to the Assembly dealt with a number of individual cases of persons who disappeared in 1973 selected as illustrative of that period.

- (i) Jorge Klein Pipper: 13/ Arrested on 11 September 1973 by military personnel and taken to the Tacna Barracks of the Air Force. No further information has been received in this case.
- (ii) Fernando de la Cruz Olivares Mori: 14/ Arrested on United Nations premises on 4 October 1973 by Navy Lieutenant Jorge Osses Novoa and taken to the Ministry of Defence. No further information has been received on the investigation into the fate of this United Nations staff member.
- (iii) Bautista van Schouwen Vasey: 15/ A British national, he was arrested on 13 December 1973 by persons dressed in civilian clothes. Press and Government reports acknowledged his arrest. No further information has been received on this case.

11/ A/34/583/Add.1, paras. 47-55.

12/ See below, for example: Persons missing in Paine in 1973 and the discovery of numerous unidentified graves at the Santiago cemetery; Missing persons from Mulchén and the discovery of hidden graves and the case of arrests and executions in Osorno: Declaration of Mrs. Blanca Ester Valderas Garrido.

13/ A/34/583/Add.1, para. 56 and E/CN.4/1381, Case report No. 1.

14/ A/34/583/Add.1, para. 59 and E/CN.4/1381, Case report No. 2.

15/ A/34/583/Add.1, paras. 73-74 and E/CN.4/1381, Case report No. 3.

(b) Group cases

22. The following group cases of persons who disappeared in 1973 were reflected in the report to the Assembly:

(i) Report of missing persons and the discovery of bodies at Cuesta Barriga: 16/

23. Late in 1978 two bodies were discovered buried at the Cuesta Barriga and the press carried reports of executions which had occurred in the area in September 1973. A judicial investigation was begun and a number of missing persons were connected with these events. A criminal complaint was filed against carabineros in relation to one missing person which stated that José Guillermo Barrera had been taken by carabineros along with six other detainees to be executed at the Cuesta Barriga and that by feigning to be dead after the shots had been fired he had been able to escape. On 14 March 1974, the day after he had informed the authorities of what had occurred, he was taken from his home on 14 March 1974 by persons identified as carabineros officers and has not been seen since. No further information had been received concerning the case of Cuesta Barriga nor on the disappearance of José Guillermo Barrera.

(ii) Lonquén: Missing persons from the Maureira, Astudillo and Hernández families: 17/

24. On 7 October 1973, 15 persons were arrested by carabineros at the town of Laja, and taken to the carabineros post. They subsequently disappeared and a judicial enquiry into the case which had produced no results was suspended in 1976. In December 1978 a number of bodies were found buried at an abandoned mine near the town of Lonquén. A special investigating judge was appointed who determined that the bodies found were those of the 15 persons arrested and that the carabineros had been responsible. The case was thus transferred to the Military Courts of Santiago, which have jurisdiction over the carabineros, and eight carabineros were indicted and placed under arrest in their service units. The case was, however, suspended because of the amnesty decree of April 1978 and the carabineros were freed.

25. The relatives requested the return of the bodies to enable them to give them a proper burial and their return was ordered by the Military Court. A hunger strike by relatives of missing persons, which had supported the request for the return of the bodies, was ended when this announcement was made. However, the bodies were not returned to the relatives, and with one exception, were buried in a mass grave at the Isla de Maipo cemetery without the families having been notified. 18/ Lawyers for the relatives filed a complaint with the Military Court of Santiago against the Military Prosecutor in connexion with the burial of the bodies and asked that the bodies be exhumed and returned to their relatives. According to information received since the report to the Assembly was prepared, the Military Court on 15 November 1979 decided that the Military Prosecutor had disobeyed the Court's order concerning the

16/ A/34/583/Add.1, paras. 57-58.

17/ A/34/583/Add.1, paras. 60-72.

18/ A/34/583/Add.1, paras. 71-72.

burial and it decided to apply to the Military Prosecutor the discipline of written censure. The Court, however, refused to order the bodies exhumed and returned to relatives because it stated that it was impossible to identify individually the remains which had been placed in the common grave. 19/ On 23 November 1979 lawyers for the relatives filed criminal complaints against the Military Prosecutor, charging him with prevarication, falsification of public documentation, illegal burial and contempt and the Director of the Santiago Institute of Forensic Medicine charging him with illegal burial, contempt, harassment and abuse of private individuals. 20/ It was reported on 6 December 1979 that the Military Court of Santiago decided to require a deposit of 300,000 pesos from the relatives as a condition to continuing the investigation of the complaint against the Military Prosecutor. 21/ No further information has been received regarding these cases.

(iii) Disappearances in Osorno and nearby towns: 22/

26. In 1979 a criminal complaint was presented concerning the arrest and disappearance of 11 persons who had been taken into custody by carabineros after 11 September and in October 1973 in Osorno and the region. Details of each case was given in the report to the Assembly. Recent information indicates that a special investigating judge has been appointed to investigate these cases, which have grown to 13 in number and that the judge is receiving evidence. 23/ However, no information has been received on any results of the investigation. For further information on events in the Osorno region during September 1973 see below the new information concerning arrests and executions in Osorno based on the testimony of Mrs. Blanca Ester Valderas Garrido.

(iv) Disappearance of 20 persons in Laja and the discovery of bodies buried at Yumbel cemetery: 24/

27. The report to the General Assembly contained information on the criminal complaint made against 13 carabineros charging them with kidnapping and murder in relation to 20 persons who had been arrested after 11 September 1973 and who had been detained at the Laja Police Station until 18 September 1973 when they were removed and subsequently disappeared. A special investigating judge was appointed in 1979 who in the course of his investigation learned that 18 bodies had been secretly buried in the Yumbel cemetery. He ordered the bodies exhumed. Information received since the presentation of the report to the Assembly indicates that the missing persons were first buried in a grave at a property known as "San Juan" some 16 km from Laja and that

19/ El Mercurio, 17 November 1979.

20/ El Mercurio, 30 November 1979, 2 December 1979 and Solidaridad No. 82, p.6.

21/ El Mercurio, 6 December 1979.

22/ A/34/583/Add.1, para. 75.

23/ El Mercurio, 15 December 1979.

24/ A/34/583/Add.1, paras. 76-77.

one month later carabineros exhumed the bodies and reburied them in the Yumbel cemetery. At the San Juan grave site, a 19th body, that of Raúl Urra Parada was discovered. 25/ The remains buried at the Yumbel cemetery were identified by their relatives and medical experts and a list of the missing persons is contained in the report to the Assembly. 26/ The special investigating judge permitted the remains to be turned over to the relatives. 27/ On 28 November 1979, 18 of the bodies were buried by their relatives at the cemetery of Laja and a 19th was buried at Los Angeles cemetery. 28/ Latest reports indicate that the judge is continuing his investigation and that it is expected he will declare himself without jurisdiction and pass the case to the military courts because military personnel were responsible. 29/

28. In understanding the events of Laja the testimony of a person who was detained with the missing persons in the Laja Police Station but who escaped execution is helpful. According to the newspaper La Tercera of 7 October 1979, a businessman, Mr. Alonso Hernandez, stated:

"I was arrested on the fourteenth at my place of business and accused of engaging in black market activities, because I kept a stock of flour. A police officer made a series of accusations, which were false. All my protests were ignored, and I was taken to the local carabineros station. There I was put in one of the two lock-ups, which were full of people. In the one I was in, there were eight people, and in the other I think there were 10."

In his statement the shopkeeper said:

"I was made to talk several times and pressure was put on me to inform on other people. They insisted that I was involved in the black market. Finally, early in the morning on the seventeenth I was separated from the rest, put into a van and taken to Los Angeles. The officer apologized, because I had nothing to do with the affair. I told him I was a Christian Democrat, but not a Marxist. However, since no-one really knew what was happening, it was decided to lock me up. In the prison, on the eighteenth in the afternoon, a warder came and said: 'What a lucky escape, my friend. You almost died like your comrades. They were killed this morning while they were being brought to Los Angeles'. I was scared to death and thought the same thing was going to happen to me. I prayed to God, and here I am. But I think that those responsible should be punished."

2. Cases of missing persons not dealt with in the report to the General Assembly

29. Information has been received on the following cases which occurred in 1973 and which were not dealt with in detail in the report to the General Assembly.

25/ El Sur, 19 October 1979.

26/ A/34/583/Add.1, para. 76.

27/ El Mercurio, 27 November 1979.

28/ Hoy, 5-11 December 1979.

29/ Ibid.

(a) Persons missing in Paine and the discovery of numerous unidentified graves at the Santiago cemetery

30. As a result of a decision by the Supreme Court of 21 March 1979 a special investigating judge was appointed in the Court of Appeals of Rancagua to investigate 22 cases of persons who were reported to have been arrested on 16 October 1973 at their homes by army personnel. The report to the General Assembly mentioned some of the difficulties he had encountered in his investigation through lack of co-operation from the military authorities. 30/ It has been reported that some 20 other cases of persons who disappeared at that time are not being investigated and a check of the names of those persons reveals that in at least eight cases the names had not previously been reported on the list of missing persons of the Vicaría de la Solidaridad or the International Committee of the Red Cross. 31/ In most of these 20 cases the arrests were reportedly made by personnel of the infantry regiment of San Bernardo. 32/

31. On 13 November 1979 the Vicar General of the Catholic Church of Santiago presented to the special investigating judge charged with the Paine cases a written report on the clandestine burial of some 300 bodies in "Patio" No. 29 of the Santiago cemetery. That report was the result of information provided confidentially to the Church authorities from a person who said he witnessed the burials. According to the description given by this person,

"The corpses were transported in lorries, in packing cases without lids, two or three corpses in each ... lying in various positions: some face down and others face up ... they had bullet wounds ... some were mutilated (a limb or the head missing) ... they were buried in trenches (two or three in a trench) ... naked and sometimes with their clothes next to them". 33/

Some 300 graves were found in "Patio" 29 marked "N.N.", for name unknown, or with "N.M." and a name, or with two names. The graves were reportedly uncared for indicating that they were not known to the relatives. According to the Church's report, the person who provided the information said he knew some of the bodies were of persons from Paine who, it appeared, were brought from Chena Hill by military personnel of the San Bernardo infantry regiment. 34/

32. According to the magazine Hoy, at the end of September 1973 some 20 persons were arrested near Paine by personnel of the San Bernardo regiment, among them Juan Guillermo Cuadra Espinoza, and that only two of the 20 returned to their homes.

30/ A/34/583/Add.1, para. 39.

31/ Solidaridad, No. 82, p.5. The names listed therein have been checked against the composite computerized list of missing persons contained in the report of the Ad Hoc Working Group on Chile to the General Assembly at its thirty-second session, A/32/227, Annex LV.

32/ Solidaridad, No. 82, p.5.

33/ Hoy, 21 to 27 November 1979. See also El Mercurio, 14-15 November 1979.

34/ Hoy, 21 to 27 November 1979.

One of those who returned stated he was held with Juan Guillermo Cuadra Espinoza at the detention camp at Chena Hill. The mother of Juan Cuadra subsequently found a grave with his name on it at "Patio" 29. 35/ An article in the magazine Solidaridad reads in this connexion:

"The fact that all those who disappeared from Paine had at some stage been in the Chena detention camp, and the discovery of the corpse of one of the persons concerned in Patio 29 of the Santiago public cemetery would suggest that the other persons who disappeared from this place may have suffered the same fate as Cuadra Espinoza." 36/

33. According to an article in El Mercurio of 15 December 1979 the special investigating judge has decided to declare himself without jurisdiction and to transfer the cases of the missing persons in Paine including the Church's report of the burials at "Patio" 29 to the military courts because of the involvement of military personnel. According to reports the judge has officially inspected "Patio" 29 37/ but no further information has been received of additional steps, such as exhumation of the bodies, which would help to clarify the identities of the persons buried there.

(b) Missing persons from Mulchén and the discovery of hidden graves

34. A criminal complaint presented during 1979 to the First Court of Los Angeles (Primer Juzgado) by the Archbishopric of Concepción on behalf of relatives of missing persons alleges that at the beginning of October 1973 a military patrol of some 30 armed men accompanied by civilians arrested 13 workers at two properties (fundos) at Mulchén and that those persons were never seen again. 38/ One report states that the civilians who participated in the arrests were members of the movement "Patria y Libertad". 39/ A check of the names of the 13 missing persons shows that none were reported as missing on the lists of the Vicaría de la Solidaridad or the International Committee of the Red Cross 40/ and they were not mentioned in the reports of the Ad Hoc Working Group on Chile nor in the Expert's report to the General Assembly. A request by the relatives to the Court of Appeals of Concepción that a special investigating judge be named for the case was denied and the investigation remains in the hands of the Los Angeles court. 41/

35/ Ibid.

36/ Solidaridad, No. 82, November 1979.

37/ El Mercurio, 18 November 1979.

38/ El Mercurio, 14 December 1979.

39/ El Mercurio, 29 December 1979.

40/ The names are: Alejandro Albornoz González, David Albornoz González, José Guillermo Albornoz González, Miguel Albornoz Acuña, Felidor Albornoz González, Alberto Albornoz González, Luis Alberto Godoy Sandoval, Fernando Gutiérrez, Florencio Rubilar Gutiérrez, José Liborio Rubilar Gutiérrez, José Lorenzo Rubilar Gutiérrez, Juan Roa Riquelme and Jerónimo Sandoval Medina. El Mercurio, 5 December 1979. The check was made against the composite computerized list contained in Annex IV to document A/32/227.

41/ El Mercurio, 14 December 1979.

35. On 27 December 1979 the remains of bodies, reportedly five in number, were found in a common grave at a property called "Pemehue" in Mulchén and it is reported that two of the bodies were identified by relatives through clothing as Gerónimo Sandoval Medina and Juan de Dios Roa Riquelme, two of the missing persons. 42/ At the same time it was reported that some months before another common grave had been found at the property called "Carmen Maitenes" and that seven bodies had been recovered. They were reportedly sent to the Institute of Forensic Medicine at Santiago. 43/ No further information has been received on the judicial investigation into these cases.

(c) Investigation by the Special Judge of Temuco

36. The special investigating judge appointed for the Court of Appeals of Temuco undertook the investigation of some 27 cases of missing persons 44/ of which, according to the files of the Expert, 17 occurred in 1973, one in 1974 and two in 1975. Five of the persons were not reported as missing on the lists of the Vicaría de la Solidaridad nor on the lists of the International Committee of the Red Cross, and were not dealt with in the reports of the Ad Hoc Working Group on Chile nor in the Expert's report to the General Assembly. The judge appears to be investigating only somewhat more than half of the cases of missing persons in the Temuco jurisdiction since according to an article in the magazine Solidaridad, 45/ the number of cases of missing persons reported to the Courts of Temuco is higher than 40. With regard to three of the cases being investigated by the special judge, the relatives had filed a criminal complaint naming three carabineros as the persons responsible for their disappearance. 46/ Two other cases involve the disappearance of a citizen of Ecuador, José García Franco, 47/ and a citizen of France, Etienne Pesle de Menil. 48/ It has been reported that the special judge declared himself without jurisdiction and transferred the cases he was investigating to the military courts because of the participation of military personnel in the arrests and disappearances. 49/

42/ El Mercurio, 29 December 1979.

43/ Ibid.

44/ A/34/583/Add.1, para. 39.

45/ Solidaridad, No. 81, p.7.

46/ Ibid.

47/ José Felix García Franco was taken into custody at about 14 hours on 13 September 1973 when he voluntarily reported to the police after orders to that effect were left with his wife. He was detained at the Segunda Comisaría of Temuco until 18 September 1973. His wife was told he had been taken to the border. He has not been seen since in Chile or by his family in Ecuador. (Dónde Están?, vol. 4, No. 213).

48/ Etienne Marie Pesle de Menil was arrested at his place of work on 19 September 1973 by personnel of the Chilean Air Force. His arrest was subsequently denied by the authorities and he has not been seen since (Dónde Están?, vol. 4, No.217).

49/ Solidaridad, No. 81, p.7.

(d) Arrests and executions in Osorno: Declaration of Mrs. Blanca Ester Valderas Garrido

37. Information recently supplied by Mrs. Blanca Ester Valderas Garrido, who has been in hiding since 18 September 1973, 50/ helps clarify the events in Chile in September 1973. In a criminal complaint for kidnapping, murder and attempted murder filed in November 1979 with a court (Primer Juzgado de Letras) in the town of Entre Logos, Chile, Mrs. Valderas Garrido states that she and her husband, Joel Fierro, together with Ricardo Huenuman Huenuman, Sergio Huichacan and a person named Nuñez, were arrested on 17 September 1973 by carabineros from the carabineros base at Entre Logos (El Retén de Entre Logos) and held at that base until the morning of 18 September 1973. Mrs. Valderas Garrido states that she and the others arrested were members of the Socialist Party. According to her statement, at one a.m. on 18 September 1973, they were taken from their cells at the carabineros base and handed over to masked and armed men who placed them in a truck and drove them to a bridge over the Pilmarquen river. They were taken from the truck and made to stand along the edge of the bridge bending over looking into the river. Behind each prisoner an armed guard stood and Mrs. Valderas heard the person behind her pull the trigger at least twice in an attempt to shoot her in the head. He became angry and pushed her into the river and she reports hearing shots fired as she fell. She was able to swim down the river and take refuge in the home of a farmer. She remained in hiding until she filed the complaint. No further information has been received on the outcome of the investigations of this complaint.

50/ See A/32/227, Annex LV. Her name was not included in the lists of missing persons of the Vicaría de la Solidaridad or of the International Committee of the Red Cross.

B. Persons missing during the period 1974-1977

38. With the exception of information on the operations of DINA little new information is available concerning persons who disappeared in the years 1974 to 1977. Although it is hoped that the investigations by the special judges (ministros en visita) now under way with regard to some of these cases of missing persons will provide more complete information. 51/ The report to the General Assembly contained information on the state of siege applied to Chile, throughout the period 1974-1977, the wide exercise of the President's special powers of arrest and detention and the creation of the DINA (Dirección Nacional de Inteligencia) which was independent of the Government and directly responsible only to the Military Junta. DINA enjoyed secret powers of arrest and had immunity from the court. It was dissolved in 1977. Arrests for political and national security reasons during the period 1974-1977 were numerous and generally carried out without regard to the established constitutional or legal rules regarding arrest warrants, or notification to family members. 52/

39. Secret places of detention were maintained where arrested persons were taken for interrogation and the laws limiting detention to three official camps were not observed. Prior to 1974 arrests of persons who subsequently disappeared were carried out principally by carabineros or uniformed military personnel as is reflected in the annex to the report to the General Assembly. 53/ Beginning 1974 arrests of persons who disappeared were carried out by the DINA and other intelligence services, and from 1975 to 1977 these arrests were made almost exclusively by the DINA. 54/ Arrests were made in ways designed to reduce the chance that they would be witnessed, for example they would take place on the street effectuated by persons dressed in civilian clothes using automobiles without licence plates. The Vicaría de la Solidaridad reported 223 well documented cases of missing detainees for 1974; 75 such cases for 1975; 111 cases for 1976 and 12 cases for 1977. While disappearance in 1973 appear to have been indiscriminate, Church sources in Chile report that in 1974 and early 1975 the focus was on members of the MIR (Movimiento Izquierda Revolucionaria), that this shifted during 1975 to the leadership of the Socialist Party and in 1976 to members of the Communist Party. In 1977 members of both the Socialist and Communist parties disappeared. 55/

1. Cases in 1974

40. In the report to the General Assembly a number of cases were dealt with for the year 1974 as illustrative of cases of missing persons occurring during that year. A brief mention of those cases follows along with a reference to the relevant case report contained in document E/CN.4/1381.

(a) The "119" missing persons:

41. Among the persons reported to the Chilean courts as having disappeared after detention in 1974 and early 1975 the names of "119" subsequently appeared in two

51/ See A/34/583/Add.1, paras. 38-39.

52/ See A/34/583/Add.1 for 1974, paras. 78-84; for 1975, paras. 95-97; for 1976, paras. 108-111; for 1977, paras. 128-130.

53/ A/34/583/Add.1, Annex.

54/ Ibid.

55/ See A/34/583/Add.1 for 1974, paras. 78-84; for 1975, paras. 95-97; for 1976, paras. 108-111; for 1977, paras. 128-130.

publications, one in Brazil and one in Argentina, as persons who had been killed outside Chile. Most are reported to be members of the MIR. On two occasions detainees in Chilean camps publicized letters in which they stated that persons on the list of "119" were seen by them alive under detention by Government security agencies. The following cases are representative of the "119".

(i) Barbara Uribe Tambley and Edwin van Jurick Altamirano. 56/ Both were arrested on 10 July 1974 by DINA agents and were subsequently seen in detention by numerous persons. Van Jurick was a British national and in response to an inquiry from the British Embassy the Chilean Foreign Ministry reported both were detained. A year later the Government retracted that information. The Expert has recently received information which confirms the detention at "Villa Grimaldi" of Edwin van Jurick. This case is being investigated by the Santiago Special Judge but no further information has been received in this regard.

(ii) Martín Elgueta Pinto, Juan Chacón Olivares and María Inés Alvarado Borgel. 57/ They were arrested by DINA agents on 15 July 1974 and taken with others to the detention centre at 38 Calle Londres. Numerous persons testified to having seen them in detention and the authorities acknowledged in writing the detention of Chacón and Elgueta. The investigation of this case was suspended and no new information has been received.

(b) Other 1974 cases

42. The following cases for 1974 were also dealt with in the Expert's report to the Assembly.

(i) David Silberman Gurovich. 58/ He was taken from the Santiago prison on 4 October 1974 by persons wearing military uniforms, one of whom identified himself as an Army Lieutenant. Numerous persons have testified to having seen Silberman in various detention centres. The investigation of this case was suspended and no further information has been received.

(ii) Guillermo Roberto Beausire Alonso. 59/ He was arrested on 2 November 1974 at Buenos Aires Airport and returned to Chile where he was held at various detention centres. Numerous persons have testified to see him in detention and the British Government - Beausire had British nationality - informed the Chilean Government in 1977 that it was firmly and genuinely convinced that DINA was responsible for Beausire's disappearance.

2. New information relating to 1974

43. Since the report to the General Assembly was prepared the following new information has been received on the following cases which were not dealt with in that report.

56/ A/34/583/Add.1, paras. 86-87 and E/CN.4/1381, Case reports Nos. 5 and 4 respectively.

57/ A/34/583/Add.1, paras. 88-89 and E/CN.4/1381, Case report No. 6.

58/ A/34/583/Add.1, paras. 90-92 and E/CN.4/1381, Case report No. 7.

59/ A/34/583/Add.1, paras. 93-94 and E/CN.4/1381, Case report No. 8.

(a) Arrest and disappearance of Alvaro Modesto Vallejos Villagran

44. The Ad Hoc Working Group on Chile received in 1975 a written report concerning the arrest and disappearance of Alvaro Modesto Vallejos Villagran, a case not dealt with specifically in the reports of the Ad Hoc Working Group or in the Expert's report to the General Assembly. This report was made by his wife, María Lucía Villavicencio Cristi and reads, in part, as follows:

"On Monday, 20 May 1974, at approximately 8.30 p.m., three civilians arrived at the house of my parents-in-law, whom we were visiting (Pasaje Prat 3250, Maipú). They identified themselves as members of SIM and were armed with machine guns. They arrested my husband, claiming that third parties had named him as 'a member of the Central Committee of MIR and in possession of dollars used to finance guerillas'. While they were questioning the family they made threats, saying that 'he would not stand up to interrogation' because of his physical condition. He was taken away in a white Chevrolet C-10 van, handcuffed, with his hands behind his back. None of the civilians would give his name. Later, they went to my brother's house and questioned my brother and his wife, after which they arrested me, covered my eyes with scotch tape (but badly), and took me away in a white four-doored twin-cabin van to a house in Calle Londres (No. 38). Inside the house I was allowed to see my husband, who was handcuffed and blindfolded. They promised to let me out of the country if my husband 'told them everything he knew'. They then blindfolded me and took me into a room to interrogate me; they humiliated me and struck me several times, all the while threatening me and insulting me. Later they took me to my father-in-law's house and left me there under house arrest ... On 29 July, at 7 p.m., my husband was taken to my father-in-law's house and was told that he was free but must sign in at the carabineros station in Maipú every three days. After he had been there for between 10 and 15 minutes (a great display of vigilance being shown), two civilians arrived, showed their TIFA (armed forces identity card) to my father-in-law and said they were taking my husband away to sign in and would return. Since that date, they have never returned to provide any information as to my husband's whereabouts and physical condition. On 15 November, the International Red Cross received an official communication signed by Colonel Espinoza in which my husband was listed as one of a number of people in 'Tres Alamos'. When inquiries were made at SENDET in this connexion, Lieutenant Cienfuegos replied that 'there must have been a mistake'. On 20 February 1975, in a statement made by four members of MIR on the national radio and television networks, my husband was referred to as an 'exile'. When I went to SENDET, I was informed that, in accordance with decree No. 349, my husband had been released on 29 August 1974."

María Lucía Villavicencio reports that two requests for amparo were made on her husband's behalf and that a criminal complaint was filed with the seventh criminal court (7° Juzgado del crimen). 60/ No further information has been received on the outcome of this complaint.

45. Information concerning what might have been the fate of Mr. Vallejos Villagran is contained in testimony given to a court in the Federal Republic of Germany by Samuel Enrique Fuenzalida Devia who reports having been an agent of the DINA from late 1973 to May or early June 1975. Mr. Fuenzalida testified that he had taken a prisoner named "Loro Matías" to "Colonia Dignidad". The Ad Hoc Working Group on Chile had reported that "Colonia Dignidad" was a place of detention of DINA. 61/

60/ Mr. Vallejos Villagran's disappearance was reported by the International Committee of the Red Cross and the Vicaría de la Solidaridad. See A/32/227, Annex LV No. 940.

61/ See for example A/31/253, paras. 196-205.

The section of Amnesty International for the Federal Republic of Germany reports that through Mr. Vallejos Villagran's wife and others it has established that "Loro Matias" was the name used by Mr. Vallejos Villagran in the MIR. Mr. Fuenzalida's testimony concerning "Loro Matias" reads, in part, as follows: 62/

"My first visit to the 'Colonia Dignidad' took place while I was still employee at the 'Villa Grimaldi' in Santiago. That was in the winter of 1974, that is to say in June/July 1974. That time I was called to see Commander Manuel Manrique. He told me I was to accompany an officer to the south, to 'Los Alemanes'. The officer I had to accompany was a captain and was shortly to be promoted to the rank of major. He belonged to the Army. His name was, I believe, Fernando or Fernandez or something like that. We received orders to go first to Cuatro Alamos, where we were to pick up a prisoner in custody there. This prison is located in the City of Santiago. The name of the prisoner to be picked up was Loro Matias, I knew that this man was in prison. Even before his arrest, I had been involved in keeping a watch on him under DINA's orders. Loro Matias was the chief of the political commission of MIR ('Movimiento Izquierda Revolucionario' that means 'Left Revolutionary Movement'). Matias was the son of a non-commissioned officer in the Army. In the period after the coup of 1973, his father worked in the Ministry of Defence. The son was a student.

"We picked up Loro Matias, handcuffed, at 'Cuatro Alamos'. He wanted to take various personal effects with him, but the major, Fernando or Fernandez or something like that, said to him: 'That is not necessary, you will not be needing that any more'. This last remark by the captain or major meant that Matias had no chance of survival. The prisoner was a complete wreck; he had been tortured. Too much had happened for it to be possible to set him free again.

"At the time I had access in the 'Villa Grimaldi' to the card index that was kept for every person under observation or detained. I had to consult this constantly in connexion with my duties. From the card index I saw that the prisoner Loro Matias had the word 'Puertomont' entered after his name. This was a code word. It was used when a prisoner was not to survive. At the same time this code word meant that the person concerned was to be eliminated 'on land'. I do not know the details of how this was done, because I never killed anybody. Then there was another additional code word, the word 'Moneda'. That meant that the person was to be eliminated by air or by sea - for instance, by being thrown out of a plane or dropped into the sea inside a weighted sack.

"From Santiago we took the following route with the prisoner ...".

The witness in his testimony described in detail the route taken to "Colonia Dignidad" and after this description he continued as follows:

"We then arrived in the car at the entrance gate of our place of destination. There was a sign which said: 'No Visitors', or something to that effect. In front of the gate, which was open, we saw a sky-blue four-doored private car, a Mercedes, standing in a sort of parking area. It was waiting for us ..."

62/ The testimony is taken from the German language transcript of a public hearing of the Bonn Land Court (Third Civilian Chamber) held on 30 October 1979 which is in the files of the Expert.

"Further to the situation on arrival at the gate: the captain got out and went over to the car with the two men, the Germans. For the time being I stayed in our Chevrolet. The captain spoke in German with the two Germans. Then he called out to me to bring the prisoner over. So it was not the captain but I who took the prisoner over to the Mercedes. The prisoner was placed in the Mercedes. The captain got into the Mercedes next to him, and inside there was also the German who was later addressed by the captain as 'Professor' (but that was only later, during the meal).

"We then drove away from the gate towards the centre of the settlement. The Mercedes drove in front and I followed next with the Chevrolet, the second German from the Mercedes had got in with me; and the orderly's Chevrolet, with the captain's batman in it, followed as the last car in the convoy ...

"The German who sat with me told me where I should leave the car, namely in front of the house which we then entered, but not directly in front of it; there was a small garden in between ...

"The German who had been in the car with me took me and the captain's batman into the house. A table was already laid for everybody. When we had sat down, the captain came in, and the German who had sat with him in the Mercedes and whom the captain later addressed as 'Professor' followed a little later. The 'Professor' brought in with him a black alsatian dog (he had it with him whenever I saw him). As the 'Professor' came in he made a gesture with his two arms which I took to mean that the prisoner was dead. As he made this gesture, which could only mean: 'that's that', 'that's finished' or something similar - in Spanish one would say 'terminado' - the German 'Professor' uttered a word like: 'Fertig' in German. It is true that I was not familiar with the word 'fertig' in the German language up to then; but I understood the word easily in the sense I have just explained, because of the 'Professor's' gesture, and later, when I heard German spoken, I heard the word again. No one ever really explained to me the precise meaning of the German word 'fertig', but later, here in Germany, I found the meaning which I had attached to this word confirmed when I looked it up in the dictionary.

"The gesture which the 'Professor' made did not really surprise me. It merely confirmed what was to be expected anyway. After all, I already knew that the prisoner was doomed to die ...

"In the conversation which followed, during the meal, the 'Professor' mentioned the chief of DINA, Colonel Manuel Contreras, as an old acquaintance. He spoke about President Pinochet in the same way.

"When I returned to Santiago from the 'Colonia Dignidad' after this trip I found that the index card records concerning Loro Matias had already been removed from the files."

46. In his testimony Mr. Fuenzalida identified by photographs the "Professor" as Paul Schäfer whom the section of Amnesty International of the Federal Republic of Germany reported to be the founder and chief of "Colonia Dignidad". During these same proceedings Mr. Erick Zott, who reported having been detained at "Villa Grimaldi", "Colonia Dignidad" and the DINA hospital "Santa Lucía" in 1975 identified Mr. Fuenzalida as one of the DINA agents at "Villa Grimaldi". Mr. Fuenzalida also testified that he recognized Mr. Zott as having been one of the prisoners at "Villa Grimaldi" and the "Santa Lucía" hospital. For information from the Government of Chile stating that Mr. Fuenzalida was not a DINA agent see above paragraph 12.

(b) Arrest and disappearance of Carlos Alberto Carrasco Matus

47. The files of the Expert contain the following information on the arrest of Carlos Alberto Carrasco Matus. The latter, a former student leader at the Instituto Comercial No. 5, began his compulsory military service in April 1973 and was assigned to the Buin Regiment, Santiago. He was due to complete his two years of military service on 1 April 1975. Shortly after 11 September 1973, he was transferred to service at the Cuatro Alamos detention camp run by the Directorate of National Intelligence (DINA). On 14 March 1975, a holiday, in front of his parents, brothers and sisters, he was taken from his home by two DINA officers, with whom he had worked. The officers said that they had to verify certain statements. The day after the arrest, his immediate commanding officer came to his home in order to take away his service firearm and ammunition. The DINA officer said his name was Anibal Barrera, and at the request of Carrasco Matus' mother produced papers with the number 8869. On 28 April 1975 this same person, later identified as Orlando Manzo Durán, informed the family that Carrasco Matus had deserted. In a letter dated 6 May 1975 the Commanding General of the Army Garrison of Santiago informed the parents that Carrasco Matus was being held at the Santiago Prison. In amparo and criminal procedures initiated in this case conflicts in the testimony on how Carrasco Matus deserted were revealed. These legal procedures gave no results although it is reported that this case is under investigation by the Special Investigating Judge of the Santiago Court of Appeals.

48. The Expert has recently received information according to which the DINA authorities had lost confidence in Carrasco Matus and had placed him in the Tower at Villa Grimaldi where he was killed. Many elements, which the Expert is unable to disclose at this time, lead him to believe that this information is exact. This is one of the cases on which the Government of Chile undertook to provide information to the United Nations as part of the agreement between the Government of Chile and the United Nations by virtue of which the sit-in and hunger-strike at the Headquarters of the Economic Commission for Latin America in Santiago in June 1977 63/ was ended.

3. Cases in 1975

49. For the year 1975 the report to the Assembly dealt with the following cases selected as illustrative of the period. Reference is made to the relevant case reports in document E/CN.4/1381.

(a) The eight persons arrested in Valparaíso in January 1975 64/

50. In January 1975 numerous members of MIR were arrested by DINA agents in Valparaíso, held at the Maipo Barracks in that city and transferred on 28 January 1975 to Villa Grimaldi in Santiago. Among them were eight persons who remain missing. Many witnesses have testified to being detained together with the eight. At first the DINA and the Ministry of the Interior denied having information on the arrest of the eight but subsequently the DINA admitted arresting them but stated they had been released. The Expert had recently received information which confirms the detention at Villa Grimaldi of the eight missing persons from Valparaíso. According to this information a decision had been made in February 1975 that they were to be killed. No information has been received on the outcome of the judicial investigation undertaken in these cases.

63/ See A/32/227, paras. 121-123 and E/CN.4/1266, paras. 70-73.

64/ A/34/583/Add.1, paras. 98-102 and E/CN.4/1381, Case reports Nos. 9-16.

(b) Carlos Enrique Lorca Tobar and Modesta Carolina Wiff Sepúlveda 65/

51. Both members of the Socialist Party were arrested on 25 June 1974 and taken to a DINA detention centre in the commune of El Quisco. Several witnesses have testified to being detained with Lorca at Villa Grimaldi. On 30 April 1976 the investigation into this case was suspended and no further information has been received.

(c) Luis Hernán Trejo Saavedra, Alejandro Juan Avalos Davidson and José Ramón Ascencio Subiabre 66/

52. Luis Hernán Trejo, a Trade Union Official, was arrested on 15 September 1975 by DINA agents. Official written confirmation of his arrest was given to his wife. Alejandro Avalos, a member of the Communist Party, was arrested on 20 November 1975 after having left the University where he taught. DINA agents had previously told University authorities that they had orders to arrest Avalos without witnesses. A number of former detainees have testified that they were detained at Villa Grimaldi with Avalos. José Ramón Ascencio, a member of the Communist Party, was arrested on 29 December 1975 and a number of witnesses have testified to being held with him at Villa Grimaldi. No further information has been received on the investigation into these cases.

4. Cases in 1976

53. For the year 1976 the following cases were dealt with in the report to the Assembly as illustrative of the disappearances occurring during that period. Reference is made to the relevant case reports in document E/CN.4/1381.

(a) Five persons arrested at 1587 Calle Conferencia 67/

54. Five members of the Communist Party were arrested by DINA agents between 4 and 6 May 1976 at a house located at 1587 Calle Conferencia, Santiago. That house, along with another house belonging to a relative of the tenant of 1587 Calle Conferencia, had been occupied since 30 April 1975 by DINA agents. Although witnesses have testified to the arrests and they were reflected in the press, no information has been received concerning the places at which they were detained. The Government stated its files showed that two of those arrested had left the country. No further information has been received in these cases.

(b) Carlos Humberto Contreras Maluje 68/

55. A member of the Communist Party, he was arrested on 3 November 1976 by DINA agents driving the official car of the Chief of Chilean Air Force Intelligence. Numerous persons witnessed the arrest including an officer of the Carabineros and the Santiago Court of Appeals, concluding that the DINA had arrested Contreras Maluje, ordered his release. The Ministry of the Interior did not comply. The investigation

65/ A/34/583/Add.1, paras. 103-104, and see E/CN.4/1381, Case report No. 17.

66/ A/34/583/Add.1, paras. 105-107, and see E/CN.4/1381, Case report No. 18 (Avalos Davidson).

67/ A/34/583/Add.1, paras. 112-114 and see E/CN.4/1381, Case reports Nos. 19-21.

68/ A/34/583/Add.1, paras. 115-118, and see E/CN.4/1381, Case report No. 22.

in Chile on this case has been suspended and no further information in this regard has been received. In its annual report to the 1979 session of the General Assembly of the Organization of American States, the Inter-American Commission on Human Rights declared that it had in its possession "unequivocal proof of the fact that Mr. Carlos Humberto Contreras Maluje was illegally detained by agents of the Government of Chile on 3 November 1976 and since that time has disappeared". 69/

(c) Victor Manuel Díaz López 70/

56. Secretary-General of the Communist Party, he was arrested on 12 May 1979 by agents of the DINA. The arrest was witnessed by two persons and reflected in the press. A judicial investigation was reportedly under way but no further information has been received.

(d) Marta Lidia Ugarte Román 71/

57. A member of the Communist Party, she disappeared on 9 August 1976 and in September 1976 her mutilated body was found on a beach about 182 km from Santiago. A witness testified to having been detained at Villa Grimaldi with Marta Ugarte. Legal proceedings were reportedly under way in this case but no further information has been received.

(e) Thirteen persons who disappeared in November-December 1976 72/

58. Thirteen persons were reported to have been arrested and to have disappeared in November-December 1976. Most were known as members of the Communist Party and one was a member of the Central Committee of that Party. In most of the thirteen cases persons reported witnessing the arrest of the missing individual. The Government reported that eight of the thirteen had left the country. However, a subsequent investigation showed that the border station records had been altered to show that the eight had left Chile. A judicial investigation was under way in this case but no information has been received on its outcome.

5. New information relating to 1976

59. Since the report to the General Assembly was prepared the following new information relating to 1976 has been received.

(a) Discovery of a number of badly decomposed and mutilated bodies in 1976 73/

60. The Ad Hoc Working Group on Chile reported that in 1976 a number of badly decomposed male and female bodies had been found in Chile. These bodies showed bullet wounds, and the faces had been disfigured and the fingers severed. Reports had linked these discoveries with a DINA detention centre and the Ad Hoc Working Group reported expressions of concern in the Chilean Press and by the Catholic Church. 74/ The Government of Chile, in this regard, reported to the Commission on

69/ Annual Report of the Inter-American Commission on Human Rights; document OEA/Ser. P, AG/doc. 1101/79 dated 5 October 1979.

70/ A/34/583/Add.1, paras. 119-120 and see E/CN.4/1381, Case Report No. 23.

71/ A/34/583/Add.1, paras. 121-123 and see E/CN.4/1381, Case Report No. 24.

72/ A/34/583/Add.1, paras. 124-127 and see E/CN.4/1381, Case reports Nos. 25-37.

73/ A/34/583/Add.1, para. 110.

74/ E/CN.4/1221, paras. 144-145.

Human Rights that three corpses had been found, one belonging to Marta Ugarte, one to a delinquent named Jolio Moisés Leal Céspedes and the other to a woman who had drowned. 75/

61. On 13 November 1979 Lawyers of the Vicaría de la Solidaridad presented to the special investigating judge (Ministro en visita) charged with investigating the cases of missing persons occurring in the Santiago area, information on the discovery of bodies in that area in 1976. According to press reports, investigations by the Vicaría's lawyers showed that fourteen bodies, thirteen male and one female, were found in the Maipo River between 1 June and 7 October 1976. The condition of five of the bodies was described as follows:

"Naked, with their hands and feet bound with wire ..., with the fingers severed at the joints (in some cases, the autopsy revealed that the fingers had been sawn off) ..., hands and feet tied behind the back, placing the body in a strange position with the legs bent backwards ... none with bullet wounds."

Two other bodies were found to have bullet wounds and one of them, the hands of which had not been cut off, was identified as belonging to an Air Force soldier who disappeared in May 1976 four months after requesting a discharge. 76/

62. It is reported that in 1977 the prosecutor charged with investigating three of these cases decided to treat them together because,

"it is impossible to ignore certain striking coincidences, and the three cases are curiously linked with, or at least have some connexion with, the case of the disappeared persons about which so much has been heard in so many connexions and in so many organs".

This same prosecutor wrote in connexion with one of the bodies, that of a woman without hands who had a sack tied to her belt:

"She had been poisoned, bound, mutilated and then thrown into the water. This shows that the murderer or murderers were intent on eliminating her at all costs and wanted to be quite sure that the corpse could not be identified. Is this one of the victims in question, one of the persons sought but not found? The courts do not have enough information to pass judgement, nor have they any way of obtaining such information or finding answers to all these questions."

The prosecutor charged with the investigation regarding the case of the Air Force soldier, reportedly wrote:

"It is a pity that no one was asked, not even by the press, to identify the body; it is well known that complaints have been made with regard to the disappearance of persons."

In the case of this Air Force soldier, no expert examination was ordered of the bullets found in his body. 77/

75/ E/CN.4/1247/Add.1, Part II, Chapter IV; 2.

76/ Hoy, 21-27 November 1979. See also El Mercurio, 15 November 1979.

77/ Ibid.

63. In the report to the special judge the lawyers for the Vicaría revealed official confirmation that in 1976 a DINA centre of operations was located in "El Cajón del Maipo" which was known as the house of stone (casa de piedra). 78/ No further information on the outcome of the special judges investigation has been received.

(b) The case of Carmelo Soria Espinoza

64. The Ad Hoc Working Group on Chile reported on the disappearance on 14 July 1976 of Mr. Carmelo Soria Espinoza a staff member of the United Nations Economic Commission for Latin America and the discovery on 16 July 1976 of his body some distance from his wrecked automobile. The circumstances suggested his death was neither an accident nor suicide. Prior to 11 September 1973 Mr. Soria worked in an official publishing house and the wife of Mr. Soria testified that prior to his disappearance they had been under DINA surveillance and that colleagues of Mr. Soria had been arrested and questioned about him. A judicial investigation was initiated and the Government of Chile informed the Ad Hoc Working Group that, from the existing information, it was clear that an accident was involved. 79/ According to Chilean newspaper reports, the Santiago Court of Appeals in December 1979 confirmed a decision by the Third Criminal Court (Tercer Juzgado del Crimen) that temporarily suspended the investigation. According to these reports the judge concluded that Carmelo Soria had been murdered but that it was impossible to identify the persons responsible. 80/

6. Cases in 1977

65. The report to the General Assembly dealt with the following two cases selected as illustrative of those occurring in 1977.

(a) Vicente Israel García Ramírez. 81/ A member of the Socialist Party, he was arrested together with his wife on 30 April 1977 in the town of San Fernando by persons identifying themselves as from the Bureau of Investigations. They were taken to an unknown place of detention where several persons state they saw or heard García Ramírez. No further information has been received on the results of a judicial investigation in this case initiated following a criminal complaint.

(b) Jorge Andrés Troncoso Aguirre. 82/ He was arrested in Santiago on 11 May 1977 and two persons, who subsequently were transferred to the DINA detention centre Cuatro Alamos, testified to having been with Troncoso in an unknown place of detention. Testimony of one of those persons indicates Troncoso died while being tortured. A criminal complaint was filed in this case but no information has been received on its outcome.

78/ Ibid.

79/ A/31/253, paras. 194-195, E/CN.4/1221, paras. 160-167.

80/ La Tercera, 7 December 1979. El Mercurio, 3 December 1979.

81/ A/34/583/Add.1, paras. 131-132 and see E/CN.4/1381, Case report No. 38.

82/ A/34/583/Add.1, paras. 133-135 and see E/CN.4/1381, Case report No. 39.

II. WOMEN WHO DISAPPEARED AT A TIME WHEN THEY WERE PREGNANT AND CHILDREN
BORN IN DETENTION

66. The Association of Relatives of Missing Detainees has expressed to the Expert deep concern about the women who had been arrested while pregnant and who subsequently disappeared. They expressed concern both for the women themselves and their unborn children and referred to the discovery in Chile of two children, Ana Lucia and Anatole Boris Julian Grissona who had been arrested with their parents in Buenos Aires in September 1976 and whose parents remain missing. The Association transmitted information and requested an urgent investigation of the following cases:

A. María Cecilia Labrín Sazo

Identity card: 16,885 of Providencia

Date of birth: 15 May 1949

Age: 25 at time of arrest

Marital status: Single

Domicile: Latadía 4301. Los Condes, Santiago

Occupation: Social worker. Employed as social worker at CORVI, until December 1973. Employed by a firm named Hucke at the time of her arrest.

Circumstances of arrest:

This person, who was an active member of the Revolutionary Left Movement (MIR), was arrested at her home by officials of the security agencies at about 10 p.m. on 12 August 1974. The abductors were three persons in plain clothes who claimed to be investigators from CORVI. They asked her to go with them for a short while, to which she agreed, in spite of being one-and-a-half months pregnant and not in good health for this reason. Her pregnancy has been medically and legally certified and attested.

In October 1974 her mother was informed unofficially that María Cecilia was at the Chilean Air Force Academy and in February 1975 she learned by the same means that her daughter was in the incommunicado section of "Tres Alamos" (now known as "Cuatro Alamos"). Both these items of information were duly brought to the attention of the courts.

A person who did not identify himself reported that María Cecilia Labrín Sazo had been taken to a hospital for a pregnancy check-up in September 1974 and there is also information to the effect that María Cecilia did in fact have her baby, and that it was a girl and its weight was given. The day and month given as the date of birth coincided exactly with the ninth month of pregnancy (5 March).

The particulars of this case were brought to the attention of the Chilean Minister of the Interior on 4 October 1978. 1/

1/ This case is reported in Volume 6, Case No. 349 of the publication "Dónde están".

B. Gloria Ester Lagos Nilsson

Identity card: 4,332,602 of Santiago
Marital status: Married
Date of birth: 29 September 1945
Age: 28 years at time of arrest
Domicile: Población La Sierra C. Block 13, Depto. 34 de Santiago
Occupation: Secretary
Circumstances of arrest:

She was arrested on 27 August 1974 at her home in the presence of her son, Héctor Meza Lagos, then 10 years old, and her employee. At the time of her arrest, she was one-and-a-half months pregnant and this fact was brought to the attention of the courts. Her disappearance was reported by the International Committee of the Red Cross and the Vicaría de la Solidaridad. 2/

C. Cecilia Miguelina Bojanic Abad

Identity card: 6,360,887 of Santiago
Marital status: Married
Date of birth: 7 May 1951
Age: 23 at time of arrest
Domicile: Paraguay 1340, Paradero 22 de Santa Rosa, Comuna de La Granja, Santiago, Chile
Occupation: Secretary of "Sandoz Farmacéutica Ltda." from 1970 to 1973. At the time of her arrest she was working as a housewife as she was four months pregnant.
Circumstance of arrest:

Cecilia was arrested, together with her one-and-a-half year old son Leonardo Oyarzún Bojanic, at her home on 2 October 1974, at about 6 p.m. by two armed individuals. They took her from her home to that of her sister Ximena Carolina Bojanic, where they arrested her husband, Flavio Arquímides Oyarzún Soto. The one-and-a-half year old child was brought back the same day but his parents are still missing.

There is testimony that the couple were in the secret place of detention known as "José Domingo Cañas" and also in the incommunicado section of "Tres Alamos" (now known as "Cuatro Alamos"). It is known that when Cecilia was in the latter place a doctor of the section gave her a pregnancy check-up. In mid-October the couple were taken away from "Cuatro Alamos" to an unknown destination. The baby was due to have been born about March 1976, according to legally attested medical evidence.

The testimony and texts referred to which confirm the arrest of the person concerned and her condition at the time have been introduced as evidence in the abduction proceedings brought before the Fourth Departmental Criminal Court in Santiago. The Minister of the Interior has been in possession of the complete file on this case since 24 August 1978. 3/

D. Jacqueline Paulette Drouilly Yurich

Identity card: 205,565 of Temuco
Marital status: Married
Date of birth: 3 December 1949
Age: 24 at time of arrest
Domicile: Decombe 1191, Providencia, Santiago
Occupation: Social Science student at the University of Chile
Circumstances of arrest:

Jacqueline was arrested on the night of 30 October 1974, at her home at 1191 Decombe, by agents in plain clothes who indicated they were from the DINA and that they were looking for her husband Marcelo Salinas Eytel. She was taken away that night and they stayed to wait for her husband. He arrived by taxi at about 7 a.m. the following morning, at which time he was arrested. At the time of arrest Jacqueline was three months pregnant and her child was due to be born in April 1975. Both Jacqueline Drouilly and her husband, Marcelo Salinas, have been missing since the time of their arrest and their names appear in the "list of 119" persons reported killed outside Chile. 4/

This case was reported by the International Committee of the Red Cross and the Vicaría de la Solidaridad. 5/

E. Michelle Peña Herreros

Marital status: Single
Date of birth: 27 July 1947
Nationality: Spanish
Age: 27 at time of arrest
Domicile: Gálvez 145, Santiago (last fixed address)
Occupation: Engineering student at UTE

3/ This case is reported in Volume 5, case No. 245 of the publication "Donde Están".

4/ See above chapter I, B, 1.(a).

5/ See A/32/227, Annex LV No. 263.

Circumstances of arrest:

She was arrested on 28 June 1975, at Población Las Rejas, where she occasionally stayed at that time. There is evidence that she was detained in Villa Grimaldi. At the time of her arrest she was eight-and-a-half months pregnant. Unofficially it is known that Michelle gave birth to her child who was taken from her, according to information from a detainee who was at Villa Grimaldi and who heard Michelle persistently shouting "Let me see my child". The fact that she was pregnant is known to the courts through the legal action taken on her behalf, and all information on this case was sent to the Chilean Minister of the Interior on 5 July 1978. 6/

F. Nalvia Rosa Mena Alvarado

Identity card: 7,688,548 of Santiago

Marital status: Married

Date of birth: 26 August 1955

Age: 20 at time of arrest

Domicile: Cantares de Chile 6271 (paradero 16 de Santa Rosa)

Occupation: Housewife

Circumstances of arrest:

Nalvia Rosa was arrested on 29 April 1976, shortly after 7.30 p.m. when, together with her two-and-a-half year old son, she was returning to her home with her husband, Luis Emilio Recabarren González, and his brother, Manuel Guillermo Recabarren González. She had gone to meet her husband at his place of work. The three of them were arrested as they were going home and a corpulent man (who got out of a taxi) left the child some blocks away from his home. He was found crying by neighbours who informed the family. Nalvia Rosa was two to three months pregnant at the time of her arrest and the child was due to be born in September 1976.

Nalvia Rosa, her husband, Luis Emilio Recabarren, his brother, Manuel Guillermo Recabarren, and their father, Manuel Segundo Recabarren Rojas, have been missing since 1976.

On 12 July 1978 the complete file relating to the disappearance of these persons was delivered to the Chilean Minister of the Interior. 7/

G. Reinalda del Carmen Pereira Plaza

Mrs. Pereira Plaza, an active member of the Communist Party, was arrested on 16 December 1976 while returning home from a medical visit connected with her pregnancy of approximately six months. Her child, the first, was due to have been born in March or April 1977. A detailed

6/ The case is reported in Volume 1, case No. 43 of the publication "Dónde Están".

7/ This case is reported in volume 2, case No. 61 of the publication "Dónde Están".

account of this case is found in E/CN.4/1381, case report No. 33.
The information concerning this case was transmitted to the Chilean Minister of the Interior on 27 October 1978.

67. Concern over the situation of women who disappeared while pregnant, the fate of children born during secret detention and the failure to place those children in the custody of their legitimate family members is reflected in the report of the Inter-American Commission on Human Rights to the General Assembly of the Organization of American States at its ninth session ^{8/} and in a resolution adopted by that General Assembly which reads, in part,

"That disappearances in certain countries have particularly affected the well-being of children, whether born to women who have 'disappeared' while pregnant or abducted along with their parents - a method of repression which in the view of the Commission is cruel and inhumane." ^{9/}

^{8/} Annual Report of the Inter-American Commission on Human Rights.
Document OEA/SCR. P AG/doc. 1101/79 dated 5 October 1979, Section Two, Part II.

^{9/} Resolution entitled "Annual Report of the Inter-American Commission on Human Rights", document OEA/SCR. 1/V/II, 48 doc. 6.

III. ROLE OF INDIVIDUALS, PRIVATE ORGANIZATIONS, THE PRESS, THE GOVERNMENT AND THE JUDICIARY IN THE DISAPPEARANCE OF PERSONS IN CHILE

A. Role of individuals and private organizations

68. The report to the General Assembly contained information on the efforts of private persons and organizations in Chile to obtain the release or determine the whereabouts or discover the fate of detainees who had disappeared. 1/ During the period covered by the present report relatives of the missing persons on an individual basis, the Association of Relatives of Missing Persons and the Vicaría de la Solidaridad continued their actions, generally before the courts, to determine the whereabouts or fate of the missing persons. These activities are reflected above, in Chapter I of this report. The persons involved in these activities report that they continue to encounter difficulties. The Association of Relatives of Missing Detainees in a public statement dated 7 November 1979 stated that "we relatives are constantly the victims of acts which jeopardize our personal safety and peace of mind, the clear purpose of these acts being to hinder the defence of and search for our arrested and missing relatives." Particular reference was made to the death threat they received from "Comando Carevic", the continuous surveillance to which they are subjected and the threatening telephone calls they received. The statement called attention to the attack which took place on 4 November 1979 against Gala Torres Aravena, brother of Ruperto Torres Aravena, missing since October 1973, which resulted in serious injury to him. The Association also reports that the members of the Association who travelled from Santiago to Yumbel for the funeral service of the missing persons from Laja, see above Chapter I, were followed from Santiago by police, illegally arrested by carabineros at the town of Talca, searched, questioned, threatened, their identities recorded and held four hours before being released.

B. Role of the press

69. The report to the Assembly reflects the failure of the Chilean mass media to report accurately on the reliable evidence of the disappearance of detainees which existed in Chile after September 1973, which was certainly a factor which permitted the disappearances to continue, and the change in attitude of the press in 1978 which then began to admit that the problems of missing persons did exist. 2/ In the period covered by the present report the press in Chile has given increased coverage to the developments concerning missing persons, the finding of graves, the results of special investigations, as is reflected in Chapter I of this report, and this is a welcomed development which can contribute to public support for the continuation of the investigation into the fate of missing persons.

C. Role of the Government

70. Since September 1973 all constituent, legislative and executive authority in Chile has been concentrated in the Government Junta, composed of the chiefs of the Army, Navy, Air Force and Carabineros. The armed services and the various government ministries operate under the Junta's authority. 3/ This present report

1/ A/34/583/Add.1, para. 144.

2/ Ibid., para. 145.

3/ Ibid., para. 146.

and the report to the General Assembly show that during the period from 11 September 1973 to the beginning of the operation of the DINA in the first half of 1974 agencies under the authority of the Government Junta, principally the military services and the carabineros, and their intelligence units, arrested a large number of persons who were connected with the prior government or who were suspected of supporting that government or of being opposed to the seizure of power by the Military. This included members of the Socialist party, trade unionists and peasant leaders. The formalities of obtaining arrest warrants or of keeping lists of prisoners were not observed and, as now appears clearly, many of these persons were removed from their places of detention by the military or carabineros and killed. 4/

71. The report to the General Assembly showed that the involvement of the Government of Chile in the disappearance of persons during the period beginning with the creation of DINA was twofold; first in the establishment of an organization independent of the Government, depending directly on the Government Junta and in particular the President of Chile, which had its own secret powers of arrest and detention and whose activities and personnel were made immune from the courts of justice. Secondly, the Government of Chile, that is the Government Junta, is involved in so far as it did not require the DINA in its operations to observe laws concerning the requirement of a written arrest warrant, limitation on the authorized places of detention, time limits on detention and prohibiting ill-treatment of detainees. 5/

The DINA and missing persons

72. Information which has recently become available sheds increased light on the structure and operations of the DINA and on the fate of the persons detained by DINA and who remain missing. This information makes worthwhile a closer look at DINA and its activities. The Directorate of National Intelligence was officially established by Decree-Law No. 521 of 18 June 1974 and was the successor of a commission known as DINA established in November 1973. 6/ It was a military organ of professional, technical character responsible directly to the Government Junta headed by a general or a high-ranking officer of the National Defence Forces in active service. 7/ Its staff consisted of personnel assigned or seconded to it by the Institutions of National Defence (Army, Navy, Air Force, Carabineros) and the Investigations services and personnel not belonging to those services directly engaged by the DINA. 8/ DINA was also entrusted with powers of arrest and detention, which, however, were kept secret. 9/ Most of the staff of DINA was composed of personnel recruited from the armed services, carabineros or Investigation services. 10/ Mr. Fuenzalida, in his testimony to the Bonn Court, 11/ stated that his transfer from his Army unit to the DINA, such decisions he said were based on personal qualifications, was the result of a military order which could not be refused. The report to the Assembly dealt in detail with the

4/ See chapter I of the present report and A/34/583/Add.1, para. 147.

5/ A/34/583/Add.1, para. 143.

6/ Decree-Law No. 521, articles I and II. See A/10285, annex XVI for articles 1 to 8 and E/CN.4/1221, para. 194 for articles 9 to 11.

7/ Articles 1 and 2, Ibid.,

8/ Articles 3 and 5, Ibid.,

9/ Article 10, Ibid.,

10/ A/31/253, para. 345.

11/ See above para. 12.

immunity of the DINA from the Chilean courts and the Director of DINA's refusal, in fulfilment of orders of the President of Chile, to provide information to Chilean courts on detainees. 12/

73. The following information on the operations of DINA is based principally on the two sources of information, the Bonn Court testimony and information from the source closely connected with the Executive Branch of the Chilean Government, described in the introduction to this report. 13/ The organizational structure of the DINA (see page 34) consisted of the DINA General Headquarters at Santiago; the Metropolitan Intelligence Brigade (Brigada de Inteligencia Metropolitana) BIM; and similar intelligence brigades for the areas outside metropolitan Santiago.

74. DINA General Headquarters, with its Director, then Col. Manuel Contreras and his staff was located in buildings on Marcoleta Street and Vicuña Mackenna Avenue in Santiago. It controlled the activities of the DINA throughout Chile and in foreign countries and maintained relations with the intelligence services of other States. DINA, according to Decree-Law No. 521 was responsible directly to the Government Junta and the Director of DINA, in a statement to the Santiago Court of Appeals referred to his obligations "to comply strictly with the orders of the President of the Republic". 14/ DINA General Headquarters also transmitted the information it deemed appropriate to the Ministry of the Interior, SENDET and other government departments.

75. The BIM which was located at "Terranova", the code name for Villa Grimaldi, had its own headquarters with a commander and deputy commander and units dealing with logistic, transportation and the guard for Villa Grimaldi. Interrogation teams were also assigned to the BIM headquarters. BIM Headquarters controlled four groups, each with its own code name. One of these groups specialized in investigating the MIR, one specialized in the Communist Party, one in the Socialist Party and the fourth was charged with investigating political or national security matters which did not fall under the competence of the other three groups. Each group was made up of a commander and his assistant and about thirty other agents divided into subgroups of five.

76. The BIM, as was mentioned above, and the commanders and assistant commanders of BIM's four groups were located at Villa Grimaldi. The remaining staff members of the four groups were assigned to other DINA offices, houses of detention, etc., throughout Santiago. Among the places of detention under DINA control in the Santiago area were:

- Cuatro Alamos, the incommunicado section of Tres Alamos;
- House at No. 38 London Street;
- Houses on José Domingo Cañas Street (Nos. 1367 and 1347);
- House on Iran Street at the corner of Los Plátanos Street;
- Houses on Belgrade Street and Vicuña Mackenna;
- "Rinconada de Maipo", former university agricultural estate.

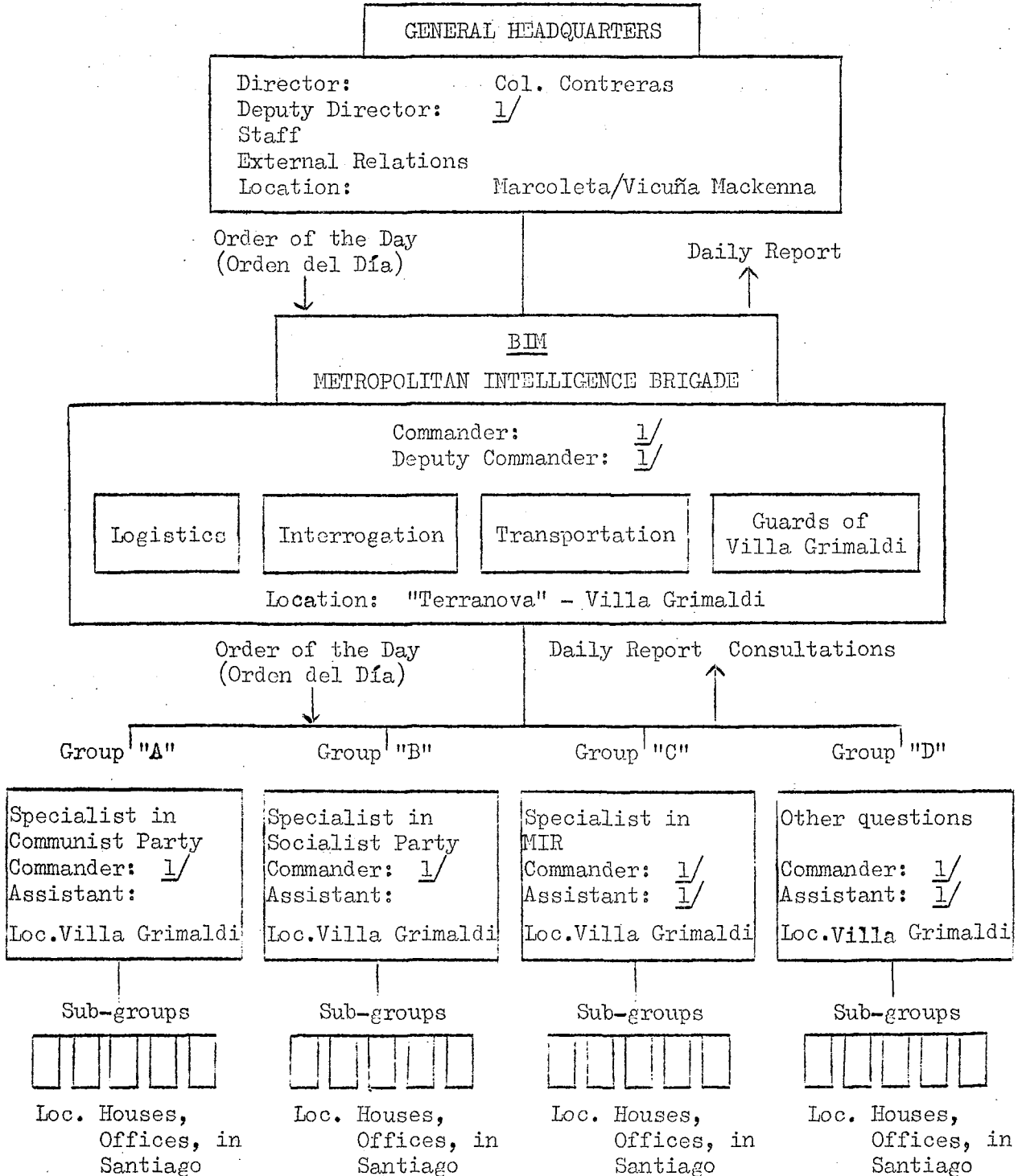
Medical and dental care was given to DINA personnel and to detainees at a clinic on Santa Lucía Street. Detainees were held on the uppermost floor of the building.

12/ A/34/583/Add.1, paras. 148-149.

13/ See above, paras. 11-12.

14/ A/34/583/Add.1, para. 148.

STRUCTURE OF DINA
Santiago Metropolitan Area



1/ Regarding information on the identities of these persons see para. 81.

77. The activities of the DINA in the provinces outside metropolitan Santiago were organized under a system analogous to that in place for Santiago.

78. The operations of the DINA system were controlled through an "Order of the Day" (Orden del Día), a daily report to DINA General Headquarters on the activities of BIM, and the "Libro de Guardia" of offices and detention places. Each day the BIM received an "Order of the Day" from DINA General Headquarters which contained detailed instructions for the activities of BIM, including the disposition of prisoners. This "Order of the Day" was in turn transmitted to the commanders of the four groups making up the BIM. Also each day a report on the day's activities and events was transmitted from the four groups to the BIM and then to DINA General Headquarters. This daily report included information on the effect given to the orders contained in the previous day's "Order of the Day" and the state and disposition of prisoners. At Villa Grimaldi a "Libro de Guardia" was maintained in which each entry and exit from the Villa was registered. The arrival of prisoners, the person bringing them and the group responsible for the prisoner was recorded in the "Libro de Guardia" which also reflected missions by DINA agents outside the Villa. The "Libro de Guardia" was checked by the Commander of BIM, signed and sent to DINA General Headquarters. The BIM also maintained a card index of names containing the names and the details of personal identity of persons under detention, persons under surveillance, or persons whose names were developed during the interrogation of prisoners. Copies of the transcripts of the interrogations of detained persons were also included in this file.

79. Arrests could be made by DINA agents on their own initiative, on orders from the group commanders, the BIM or DINA General Headquarters. Instructions were given to DINA agents to make arrests in circumstances which would reduce the possibility of the arrest being witnessed. Prisoners brought to Villa Grimaldi were registered in the "Libro de Guardia" and placed in one of the holding cells. ^{15/} Interrogation was carried out on orders from the BIM and DINA General Headquarters which included the subjects on which the prisoner was to be questioned. Prior to interrogation prisoners were generally tortured without being questioned in an operation known as "softening up" designed to make them willing to respond truthfully when questioned. It is reported that an unknown number of persons died as a direct result of torture, although instructions had been given not to let it "get out of hand". In these cases the disposal of the body was the responsibility of the group to whom the prisoner was charged, although the exact place of the burial was decided by the BIM and DINA General Headquarters. In other instances persons were deliberately killed in Villa Grimaldi, as was the case of Carlos Alberto Carrasco Matus described above (see paras. 47-48).

80. For those prisoners who did not die during interrogations and were not deliberately killed in Villa Grimaldi decisions were made on their fate which were transmitted to BIM in the Order of the Day. It would appear that such decisions were based on the consultations of the group commanders and the BIM commander and the information transmitted by them to DINA General Headquarters. Persons were not generally released directly from Villa Grimaldi but transferred to Cuatro or Tres Alamos. According to the information received the decision that a prisoner was to be killed was generally reflected in his being removed from the detention cells and placed in the Tower on the grounds of Villa Grimaldi together with other persons who were to die. They were thus isolated from the prisoners being

^{15/} See report of the Ad Hoc Working Group on Chile. A/33/331, paras. 305-309 and Annex XXXII.

interrogated and those destined to be transferred to an officially recognized place of detention. However, in a few cases persons who were to be killed and had been placed in the Tower were removed from the Tower and eventually released. Some of the elements which entered into the decision to transfer or to kill a prisoner appear to have been that the person had suffered serious and lasting physical defects as a result of torture and that his arrest had been witnessed or not; that he had or had not co-operated with the DINA during interrogation. Persons placed in the Tower were removed at night in trucks, at times as many as 20; and code words were used to indicate if they would be eliminated on land ("Puentomont") or by being thrown into the sea ("Moneda"). These details were determined by DINA General Headquarters. After a person had been eliminated the individual identity file card of the dead person in the BIM files was removed and the only trace of that person's fate would, according to the information received, appear to be in the daily reports sent to DINA General Headquarters and in records kept there.

81. The Expert has received information on the persons who were responsible for the various organizational units of the DINA during given periods and of persons directly implicated in the deaths of detainees. The Expert has decided to keep this information confidential at this time in order to protect the safety of the sources of that information and because the greatest benefit from that information would come from co-operation between the Government of Chile and the United Nations with a view to determining the fate of missing persons and in the identification and punishment of those responsible for the disappearance of detainees as is recommended in the conclusions.

82. The report to the General Assembly dealt with other aspects of the role of the Government of Chile in missing persons. It noted that the Government rarely faced up to the evidence in international reports which showed that missing persons had been arrested and detained by government agents and the report to the Assembly treated the contradictory and false information submitted to the United Nations by the Chilean Government. It remains clear that the adoption by the Government of a more positive approach to the substance of international concern with missing persons might well have contributed to eliminating the problem at an early stage. 16/ The report to the General Assembly also dealt with the lack of co-operation with current court investigations into missing persons by military authorities 17/ and with the amnesty decree of April 1978 which has, in at least one case, blocked the punishment of carabineros responsible for killing persons who had been reported missing. In this regard, the report to the Assembly reflected the position that the Amnesty could not legally be applied to crimes resulting from gross and systematic violations of human rights because of the international legal responsibilities of Chile. 18/

83. The report to the Assembly also dealt with proposals made by the Chilean Government that would have shortened from five to two years the period of absence after which a missing person could be declared legally dead. The relatives of the missing persons rejected this approach because the presumptions of death based on prolonged absence applied only to circumstances in which the whereabouts or fate of a person were not known. They argued that in the case of Chile the missing persons had been arrested by government agents and held in places of detention known to the Government which thus was able to give answers on their fate. 19/ It should

16/ A/34/583/Add.1, paras. 151-152.

17/ Ibid., para. 153.

18/ Ibid., paras. 155-156.

19/ Ibid., para. 157.

be noted that the international convention adopted to regulate the issuance of declarations of death of persons missing during World War II, with its massive destruction and displacement of populations and organized killings of minorities, required, as a condition to the issuance of a declaration of death, a court enquiry into the circumstances of the disappearance of the missing person which had to "afford reasonable ground to infer that the missing person died in consequence of events of war or of racial, religious political or national persecution". 20/ It is clear that the application of this principle to missing persons in Chile would lead to the identification of the places of detention involved, the persons responsible and possibly the exact whereabouts of the missing persons, and that no "presumption" as to the person's fate would be necessary. The compensation of victims of the disappearance of detainees in Chile, as the report to the Assembly maintains, depends first on the determination of their fate and the identification of those responsible. At that time the legal and moral responsibility of the State to compensate victims for illicit acts attributable to it comes into operation. 21/

D. Role of the Judiciary

84. The report to the General Assembly showed that the remedy of amparo if applied according to the terms of the Constitution and laws of Chile would be an important instrument for the protection of the liberty and security of persons. A Chilean judge when seized with a request for amparo is, according to the Constitution, empowered to address himself directly to the person holding another in detention, to order that the detainee be brought before him, and to order the detainee's release. The judge may also visit the place of detention and he is empowered to pursue the question of the criminal liability of those violating the law in matters of detention. 22/ However, as the report to the Assembly shows, the Chilean judiciary refused to apply the remedy of amparo according to the terms laid down in the Constitution and laws in the case of persons held by the DINA or the military authorities. The Courts in most cases refused to address themselves directly to the organ holding the detainee, for example the DINA, but rather requested information from the Ministry of the Interior or SENDET, which were not holding the prisoner and had no authority over those persons who were. This procedure was formalized in an agreement between President of the Supreme Court and the Director of the DINA. The judges did not require detainees to be brought before them, where their physical state could be checked, nor did the judges visit places of detention even when informed of the detainee's presence there. When the Ministry of the Interior or the SENDET informed the courts that "no records exist" of the detention of a person, which was irrelevant to the fact of detention since DINA was empowered to arrest without authority from the Ministry of the Interior or the SENDET, the Courts rejected the application for amparo even when strong evidence of arrest and detention of the person existed. Of more than 5,000 requests for amparo made between September 1973 and September 1979, only four were granted and one, that ordering the release of Carlos Contreras Maluje, has yet to be obeyed. 23/

20/ Convention on the Declaration of Death of Missing Persons. A/CONF.1/9, (1950) article 3, para. 1. The lapse of a period of five years after the disappearance was also required as a condition to the issuance of a declaration.

21/ A/34/583/Add.1, para. 158.

22/ A/34/583/Add.1, para. 159.

23/ Ibid., paras. 160-161.

85. The report to the General Assembly also found that the effective criminal investigation into allegations of illegal arrests and detentions and the identification and punishment of the persons responsible is another valuable means to prevent the disappearance of detainees. 24/ Unfortunately, until 1979, the Chilean Courts refused to investigate adequately criminal complaints for the disappearance of detainees. The judges failed to exercise in full their lawful powers of investigation and they failed to require the DINA and its agents to testify before them. In regard to 500 criminal cases for the disappearance of detainees which were filed between September 1973 and 1978, in none of them was the fate of the person clarified or the responsible persons punished. 25/ In 1979 the judges charged with the investigation of the missing persons of Lonquén and Laja showed the results that may be achieved by a judge exercising fully his powers of investigation. 26/ At the present time some, but not all, cases of missing persons are being investigated by special investigating judges and some have been turned over to the Military Courts because of the involvement of military personnel or the DINA. This turning over of the cases to the military courts is a cause for concern since the military courts have not been in the forefront in investigating missing persons and they may be reticent to condemn publicly their colleagues of the Chilean Institutions of National Defence. The exact state of most of the cases under investigation is not known because of the confidentiality of the procedure, but the judges should be encouraged to exercise to the full their powers of investigation and to obtain from the Government and Military all information the courts judge relevant.

86. In spite of the developments of 1979, the failure of the Chilean Courts to apply the remedy of amparo as laid down by the Constitution and laws of Chile and to adequately investigate criminal complaints for disappearances in recent years must be seen as an important factor which permitted the continued disappearance of detainees up to the end of 1977. 27/

24/ Ibid., para. 162.

25/ Ibid.

26/ Ibid., para. 163.

27/ Ibid., para. 164.

IV. THE RESPONSIBILITY OF THE GOVERNMENT OF CHILE
UNDER INTERNATIONAL LAW

87. The report to the General Assembly dealt in detail with the responsibility of the Government of Chile under international law for the disappearance of detainees in that country. 1/ The work of the International Law Commission on State responsibility and the decision of the International Court of Justice in the Barcelona Traction Company Case were examined and it was shown that a Government, such as that of Chile, was internationally responsible when the occurrence of missing persons amounts to a real situation of gross violations of human rights and for the violation of specific internationally recognized human rights involved in the acts leading to the disappearance of persons when these acts are imputable to the State. 2/ The obligation of Chile is towards the international community as such and is in addition to its obligations to other States or international organizations by reason of the nationality or the status as an international civil servant of the victim. 3/ The disappearance of persons involved the specific human rights of the right to life, freedom from torture, liberty and security of person and the right to privacy and family life. 4/ The Government of Chile's international responsibility in connexion with human rights in general and with respect to specific human rights is based on many international instruments including the Charter of the United Nations, the International Covenant on Civil and Political Rights, the American Declaration on the Rights and Duties of Man and the Geneva Conventions of 1949. 5/

88. In establishing the responsibility of the Government of Chile for the situation of missing persons in that country, the following five elements were taken into consideration in the report to the General Assembly. 6/

A. The information contained in the Expert's report and that available from the Ad Hoc Working Group on Chile, the Vicaria de la Solidaridad, and the International Committee of the Red Cross shows that in at least 600 cases of missing persons there is no doubt that the persons were arrested by State authorities, and that their fate has not been clarified;

B. International law requires that any restrictions on personal liberty and security must be provided for by law and be foreseeable and accessible. If they are not foreseeable and accessible then the restrictions on personal liberty are unlawful. The powers secretly conferred on DINA to arrest and detain persons cannot be considered as "lawful" under international law because the restriction on personal liberty so authorized were not objective, foreseeable

1/ A/34/583/Add.1, paras. 165-177.

2/ Ibid., paras. 165-170.

3/ Ibid., paras. 168-169.

4/ Ibid., para. 171.

5/ Ibid., paras. 173-174.

6/ Ibid., para. 175.

or accessible. The recent information on the activities and the decision making process of DINA demonstrates that in actual practice the arrest and detention of persons by DINA followed no objective standards, was unforeseeable and inaccessible and thus constituted in fact impermissible restrictions on personal liberty;

C. The remedies available to relatives of missing persons were in almost all instances ineffective both for releasing the detained person or in criminal investigations for disappearances;

D. The Government of Chile tolerated the reported behaviour of the Government organs responsible for the disappearance of persons and took no step to strengthen the system of judicial protection for the rights of the detainees even though it knew of the complete ineffectiveness of the remedy of amparo and judicial investigation into disappearances. The Government took no action to establish responsibilities for missing persons within its national framework, on the contrary, by the amnesty decree-law the Government waived the responsibility of the guilty persons and authorities within the national system;

E. The Government of Chile has not been willing to co-operate fully with the United Nations and other international organizations in the process of clarifying the fate of missing persons.

89. The information recently received on the activities of the DINA reinforces the findings of the report to the General Assembly that the Government of Chile established and permitted to function an organization which in theory and practice systematically violated the right to liberty and security of person. Further, this new information shows that many persons died as a result of torture by government agents and that, in addition, the headquarters of the DINA, responsible directly to the President of Chile, made decisions that certain persons were to be killed which were reflected in the code words "Puertomont" - elimination on land and "Moneda" - elimination at sea. It may be doubted if the documents in which such decisions were reflected have been allowed to continue in existence, especially in light of the report that registers of detainees of the DINA detention centre Cuatro Alamas have been burned.^{7/} The Government of Chile, if this reliable information is indeed true, is not only responsible for the arrest and detention of the missing persons, but also for the deaths of persons eliminated by decision of the DINA or killed under torture.

^{7/} Ibid., para. 153.

V. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

90. The information received since the submission of the report to the General Assembly confirms and reinforces the conclusions contained in that report. ^{1/} The new information received concerning the period from 11 September 1973 to the end of that year reflects reports of the disappearance of detainees which had not previously been made and shows that during that period persons believed to have been connected with or supporters of the previous Government, and who were subsequently reported as missing were detained and killed by carabineros or military personnel. For the period 1974 through 1977 the new information has shown that of the persons detained by the DINA some died as a result of torture and some were killed as a result of decisions that they should be eliminated. No information has been received indicating the existence of places of long term detention of missing persons and thus, the available information would indicate that the problem of missing detainees in Chile is one of their having been killed and their bodies hidden.

91. During the period September 1973 to late 1978 the Chilean judiciary in general took no effective steps to prevent the disappearance of detainees through the use of the remedy of amparo, nor to investigate complaints of disappearances. The recent judicial investigations into the mass graves at Lonquén and in the Yumbel cemetery have encouraged Chileans to bring new complaints to the Courts concerning persons who had disappeared in the past. However, not all the cases of missing persons are being actively investigated by the Courts and no effective steps appear to have been taken as yet to investigate the 300 graves found at the Santiago cemetery. The potential effectiveness of the judicial investigations is limited by the jurisdiction of the military courts over DINA and military personnel and the fact that in cases where such personnel are involved the civilian judges declare themselves without jurisdiction and the cases are transferred to the military courts. Although the status of many judicial investigations remains unknown due to the secrecy of the procedure, it does not appear that the courts are receiving the full co-operation of the Government and military authorities in the area of documents and the identity of military personnel. Further, the recent decision requiring the deposit of 300,000 pesos as a condition to the continuation of an investigation into a complaint by relatives of missing persons against the military prosecutor in connexion with the burial of the bodies of the Lonquén victims, evidences a lack of governmental concern for the protection of the rights of the relatives of missing persons.

92. The information recently received reinforces in particular the conclusion that the Government of Chile is responsible under international law for the disappearance of a large number of persons. Since the beginning of 1979 the fate of 34 missing persons has been clarified thanks to the investigations in the case of Lonquén and Laja and it would appear from the information regarding the cases of Mulchén and the executions in Osorno, that the fate of some 16 other persons is in the process of being determined.

93. The case of the missing persons in Chile still constitutes a serious situation of gross violations of human rights both from the point of view of the human rights of the missing persons themselves and from that of the large number of relatives of

^{1/} A/34/583/Add.1, paras. 178-192.

missing persons and their right to know the fate of their family members. Further, the justice due to these relatives in the form of the identification and punishment of those responsible for the disappearances also must not be forgotten. In regard to the fact that no reports have been received of persons having disappeared since 1978, it is important to emphasize that the identification and punishment of those responsible for disappearances in the years 1973 to 1977 would be an important element in preventing the reoccurrence of disappearances. Similarly, the failure to identify and punish those responsible for disappearances might well encourage some to see disappearances as an acceptable method of operation in the administration of national security in the future. Finally, the satisfaction of the legitimate right to have brought to judgement persons responsible for violations of fundamental human rights is also important to the extent that the frustration of that right can provoke regrettable extreme actions which themselves involve the violation of human rights.

B. Recommendations

94. The information received since the submission of the report to the General Assembly gives new justification for the recommendations contained in that report. 2/ The Expert wishes to draw attention to the recommendations of a general nature contained in that report and which grew out of the study of the situation in Chile. 3/ These recommendations regard the obligations of the international community in cases of large scale disappearances, the necessity for respect for the rule of law - in emergency situations and - by State security agencies, the need for strict limits on the powers of arrest and the prohibition of secret places of detention. The remedy of habeas corpus should be fully applicable at all times including emergency situations and concerning persons detained by security or military authorities. Finally, the United Nations should be equipped to respond rapidly and effectively to reports of large scale disappearances.

95. With regard to the situation in Chile, 4/ the Expert can only reiterate the finding in report to the General Assembly, that the Government of Chile is responsible under international law for the fate of at least 600 missing persons whose basic rights as human beings have been violated and for those persons who met their deaths in suspicious circumstances imputable to Government agencies. The Chilean Government owes it to the international community to explain and clarify the fate of these missing persons, to punish those responsible for the disappearances, to compensate the relatives of the victims and to take measures to prevent such acts from recurring in the future. 5/ Special attention should be given to informing the relatives

2/ Ibid., paras. 193-197.

3/ Ibid., paras. 193-196.

4/ Ibid., para. 197.

5/ Ibid., para. 177.

about the whereabouts of the children born during detention. The Chilean Minister of the Interior has had information on some of these cases for more than a year and a half and should be able to provide precise information in that regard. After the fate of each person is determined fair compensation should be made to the relatives. Investigations now underway should be accelerated and the jurisdiction of military courts over DINA and military personnel should not prevent full investigations and the publication of the truth. In respect of the discovery of mass graves, in particular in the Santiago cemetery, and the search for the burial places of the DINA and in regard to the numerous cases of missing persons not actively under investigation by the courts, the Government should institute an impartial and independent investigation commission which would have all necessary powers to identify the bodies, especially in light of the lists of missing persons of the Ad Hoc Working Group in Chile, the Vicaria de la Solidaridad and the International Committee of the Red Cross. This commission should also reconstruct the responsibility of the agents of the State in those disappearances and draw up a list of those involved.

96. The Commission on Human Rights should continue to concern itself with the situation of missing persons in Chile with a view to encouraging respect for the human rights of the missing persons, their relatives and to preventing the reoccurrence of the disappearance of detainees. It is to be hoped that appropriate arrangements will be made between the Government of Chile and the United Nations in order to permit the most beneficial use to be made of the confidential information on missing persons in Chile in the files of the United Nations. 6/

6/ See above, para. 81.