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QUESTION OF HUMAN RIGHTS IN CHILE

Report on the question of human rights in Chile submitted by
Mr. Fernando Volio Jiménez (Costa Rica), Special Rapporteur,
pursuant to the mandate conferred under resolution 1988/78
of the Commission on Human Rights

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I. INTRODUCTION

1. In accordance with paragraph 12 of resolution 1988/78, the Special Rapporteur submitted to the General Assembly, at its forty-third session, a report on the situation of human rights in Chile (A/43/624) covering the first six months of 1988. This was the seventh report by Mr. Fernando Volio Jiménez.
2. At its forty-third session, after considering the above-mentioned report, the General Assembly adopted resolution 43/158 on 8 December 1988. In paragraph 10, the Assembly invited the Commission on Human Rights to consider at its forty-fifth session the situation of human rights in Chile, "bearing in mind the report of the Special Rapporteur and the pertinent available information, and to consider the measures necessary for the restoration of human rights in Chile, including the mandate of the Special Rapporteur, and to report to the General Assembly at its forty-fourth session".
3. Pursuant to the above-mentioned resolutions, the Special Rapporteur has the honour to submit herewith, for consideration by the Commission, his second report for 1988, which constitutes the eighth report he has written on the situation of human rights in Chile. The present report covers the most significant developments during the second half of 1988, and should accordingly be read in conjunction with the report submitted to the General Assembly (A/43/624), which it brings up to date.
4. For the purposes of preparing this report, the Special Rapporteur again received permission from the Government of Chile to visit the country. This visit - his fourth to Chile - took place from 2 to 10 October 1988. Section II of this report contains a detailed account of his activities during the visit, which coincided with the holding of the presidential plebiscite. Section III comprises a new compendium - which has been transmitted to the Government for comment - of further complaints lodged with the Chilean courts concerning alleged violations of human rights brought to the Special Rapporteur's notice during his visit. The report ends with sections IV and V containing the conclusions and recommendations with which the Special Rapporteur closes the analysis of the human rights situation in Chile in 1988.

II. FOURTH VISIT TO CHILE

5. The Special Rapporteur arrived in Santiago (Chile) on his fourth official visit in the morning of Sunday, 2 October 1988. He was welcomed by senior officials from the Ministry of Foreign Affairs and representatives of the Economic Commission for Latin America and the Caribbean (ECLAC). He then had an initial informal meeting with representatives of the media. He stayed in Chile for nine days, during which he had a very full schedule.
6. As on his previous visits, the Special Rapporteur was afforded full co-operation by the Government and given complete freedom of action; he enjoyed complete independence in drawing up his programme of work. As usual, he also received invaluable assistance from ECLAC headquarters in Santiago and the precious co-operation of the various Chilean human rights organizations, while his work gave rise to keen interest on the part of the media.

7. During this visit, the Special Rapporteur extended his programme of work to three cities: Santiago, Viña del Mar and Valparaíso. He had 31 working meetings with official organizations, and interviewed a total of 53 officials, including the Minister for Foreign Affairs (twice), the Under-Secretary of the Ministry of the Interior, the National Director of the Electoral Registration Office, the Ministry of the Interior's Advisory Commission on Human Rights, the Director-General of the Police Department, the Director-General of the National Information Agency (CNI), the National Director-General of the Carabineros (twice), the Regional Director of Carabineros (Valparaíso) and a senior legal adviser to the Office of the President of the Republic. The Special Rapporteur also visited three prisons in Santiago, and interviewed a total of 15 persons who described themselves as "political prisoners". He was received by the President of the Supreme Court, three inspecting magistrates, one criminal court judge and two military prosecutors. He also interviewed the representative of an international intergovernmental organization (Intergovernmental Committee for Migration) and a non-governmental organization (International Committee of the Red Cross). He further visited polling booths in the cities of Viña del Mar, Valparaíso and Santiago during the presidential plebiscite on 5 October 1988; the previous evening he had visited the Ministry of the Interior's computer centre and the corresponding centre of the "Comando Nacional por el No" (National Command for the No Vote). He also met Cardinal Fresno of the Roman Catholic Church, many journalists and 24 Chilean non-governmental human rights, social or vocational organizations, represented by 60 persons who appeared before him on different occasions. Lastly, he received 27 persons (including those he had visited in the prisons) who had individually expressed an interest in explaining their grievances and claims to him. In short, he interviewed some 140 persons representing a wide social spectrum of Chilean life.

8. In the afternoon of Sunday, 2 October 1988, the Special Rapporteur was granted a hearing by the Minister for Foreign Affairs, who described in favourable terms the legislative development of the 1980 Constitution and the forthcoming presidential plebiscite. He stated that the United Nations and OAS Conventions on Torture had recently been ratified. The Special Rapporteur expressed concern at the continued existence of the phenomenon of torture, and urged that further improvements should be made in the agreements already concluded by the Government with the International Committee of the Red Cross and the Ministry of the Interior's advisory Commission on Human Rights. He requested a government pardon for Clodomiro Almeyda and for the persons sentenced for entering the country illegally, and asked that the legal proceedings against a large number of journalists should be dropped.

9. The Special Rapporteur was then received by Cardinal Juan Francisco Fresno, with whom he exchanged opinions of the human rights situation in Chile and the role of the Catholic Church in that regard.

10. Later, on the evening of that day, and in the early hours of Monday, 3 October 1988, the Special Rapporteur had an interview with the Director of the Electoral Registration Office, who was accompanied by the Deputy Director. On both occasions the electoral registration system was reviewed; a total of 7.4 million persons had been registered. An analysis was also made of the role of the representatives whom the various legalized political parties are able to delegate to the 22,427 polling boards throughout

the country. The voting procedure as indicated in the ballot papers and details of the report of the count which each polling board would have to prepare at the end of voting were also discussed.

11. In the afternoon of that day, the Special Rapporteur visited the former Public Prison in Santiago, and interviewed the Governor, who described to him the conditions of detention of some 156 detainees in that prison who style themselves the "Agrupación de Presos Políticos" (Political Prisoners' Group). The Special Rapporteur then requested private interviews with six of these persons, chosen by himself. They gave him details about their detention and trial. They all said that they had been subjected to torture and ill-treatment during the early days of their detention when they had undergone interrogation. They also referred to irregularities in their trial proceedings which, they said, continued in many cases for eight or nine years. They said that some of them were suffering from health problems, and expressed their expectations concerning the enjoyment of prison benefits and the release of detainees over 55.

12. Later, the Special Rapporteur had an interview with General F. Lyon, legal adviser to the Office of the President of the Republic, with whom he discussed issues such as the transfer of cases from the military to civilian courts, the backlog of cases in the Military Appeal Court, which caused delays and prevented their proper dispatch, and government pardon for, or the dropping of proceedings against, journalists awaiting trial, Clodomiro Almeyda and the trade-union leaders Bustos and Martínez, who were serving restricted-residence sentences. He also expressed his concern at the apparently inflexible attitude of Special Military Prosecutor Fernando Torres in investigating the proceedings for which he was responsible. That seemed to suggest that military justice had in practice become hypertrophied. Lastly, he expressed concern at apparent cases of bogus confrontations, which in fact seemed to have been arbitrary executions.

13. The Special Rapporteur ended his working day by receiving at ECLAC headquarters the leaders of the Sole Federation of Workers (CUT), who brought to his attention the workers' social and union problems, and in particular their concern at the restricted-residence orders imposed on their leaders Bustos and Martínez. Lastly, he met 10 persons representing 8 Chilean non-governmental human rights organizations, listened to their demands and explained his programme of work to them.

14. In the morning of 4 October 1988, the Special Rapporteur visited the Capuchinos Annex of the former Public Prison, where he interviewed Clodomiro Almeyda Medina. Mr. Almeyda expressed confidence that he would be released in December on completion of his current sentence. In his opinion, the various proceedings to which he had been subjected showed the lack of truly independent legal bodies, whether at the level of the Constitutional Court or at the level of the ordinary courts of justice.

15. Later, the Special Rapporteur interviewed Special Military Prosecutor Fernando Torres Silva, who described to him the procedural aspects of the cases in which he was directing investigations, all of them relating to terrorist activities of the Manuel Rodríguez Patriotic Front. In his opinion, that clandestine organization was responsible for the attack on the

presidential motorcade and for illegal imports of weapons. His investigations had led to the detention and trial of 70 persons allegedly involved in those acts. As regards complaints of "hypertrophy" in military justice, or alleged ill-treatment of detainees held incommunicado, he said that no one had ever been ill-treated in his presence, and that the accusations of alleged infringement of procedural and penal provisions in breach of the detainee's guarantees were groundless. He stated that he restricted himself to prosecuting detainees exclusively in the courts on the basis of sufficient evidence and ignored extrajudicial statements by detainees.

16. The Special Rapporteur then visited the Santiago headquarters of the International Committee of the Red Cross (ICRC) and interviewed its Director, with whom he reviewed the implementation of ICRC's agreements with the Police Department, the CNI and the Carabineros, the aim of these agreements being to grant ICRC officials access to political detainees and enable them to observe their state of health. He emphasized the difficulty created by the implementation of article 11 of the Anti-Terrorism Act, whereby a magistrate whether civilian or military, may order a detainee to be held incommunicado for up to 10 days in Police Department premises or in Carabineros stations for interrogation. During this period when a detainee is legally incommunicado, ICRC officials do not have access to him, with the result that the risk of ill-treatment increases substantially. The importance of adequate training for law-enforcement personnel, particularly the various police corps, was also emphasized.

17. In the afternoon of the same day, the Special Rapporteur was granted a hearing by the Under-Secretary of the Ministry of the Interior, who described to him the measures adopted by the Government to ensure the orderly conduct of the election on 5 October, and the projections of the official vote count through the use of a computer centre with a terminal in a press room in the Diego Portales Building. The Under-Secretary noted that the data to be furnished by that terminal would be official, but provisional, since the only body empowered to announce the final results of the plebiscite was the Electoral Service, which would take at least 10 days to complete its own count.

18. The Special Rapporteur was then received by the Director-General of the Police Department, who gave him a large quantity of documents in response to complaints he had compiled in the past concerning alleged human-rights violations attributed to Police Department officers. The Director-General assured him that there were no secret places of detention controlled by the Police under his orders, and that the agreements with ICRC were operating normally. He also reviewed the investigation of pending legal cases which had achieved a certain notoriety, such as that of the throat-cuttings. Later, the Special Rapporteur was received by General H. Salas, the Director-General of the National Information Agency (CNI), who described to him the activities of the police under his orders and referred to some of the cases in which CNI agents had allegedly been responsible for human rights violations.

19. The Special Rapporteur concluded his working day with a late visit to the Ministry of the Interior's computer centre located in the Diego Portales Building, which had a terminal and a large press room. He next visited the computer centre of the "Comando Nacional por el No," where he interviewed the campaign leaders and was told about the operation of the centre.

20. On 5 October 1988, the presidential plebiscite was held in absolutely normal conditions. On this occasion, the Special Rapporteur requested and obtained from the Government facilities for admission to polling stations or boards, to verify that they were functioning smoothly. Accordingly, the Special Rapporteur travelled early in the morning to Viña del Mar, where he met the Chairman of the Electoral Board of that town and visited the polling station located in Liceo Agua Santa (known as the Liceo las Monjas) in Viña del Mar, where 51 polling boards were already operating. The Special Rapporteur did the same in Valparaíso, where he went to inspect a polling station for men located in Liceo B-29 and one for women in Liceo Barros Luco. He also took the opportunity of visiting, while in Valparaíso, the Zone Headquarters of the Fifth Region of Carabineros, as well as the local office of the non-governmental organization FASIC, which offered him facilities for carrying out his work. On his return to Santiago, the Special Rapporteur was able to visit other polling stations, such as the Instituto Nacional (men) situated in central Santiago, Liceo A-43 (women) in Providencia, School D-16 (women) in Independencia and School D-149 (women) in Recoletos, Pincoya settlement, Conchalí. Everywhere he went the Special Rapporteur could see that there was a large turn-out of people intending to vote, a proper organization of the lines of voters and the composition of the polling boards, and a high degree of public spirit and orderliness during this important election day.

21. In the morning of 6 October 1988, the Special Rapporteur was received by the President and members of the Ministry of the Interior's Advisory Commission on Human Rights. During this meeting, the question was raised of the implementation of article 11 of the Anti-Terrorism Act, which allows the magistrate to order incommunicado detention for 10 days. The Commission is reported to have prepared a draft bill to amend the period of judicial incommunicado detention provided for in the Code of Penal Procedure, and which is awaiting an opinion from the Supreme Court. On the situation in respect of exile, it was stated that the only cases pending were those of persons serving judicial sentences of exile, in whose case it was necessary to apply for a pardon of the outstanding penalties. With regard to the alleged transfer of legal proceedings from the military to the ordinary system of justice, it was stated that only one case had been identified, in conformity with the information provided by the Government Attorney. The members of the Commission also expressed support for the establishment of a judicial police force, which they considered to be a common aspiration of magistrates and lawyers. They also stated that they had applied to the Ministry of the Interior for the discontinuance of the proceedings against 29 journalists awaiting trial. With regard to the question of disappearances and judicial investigations similar to those conducted by Judge Cerda, it was stressed that the Amnesty Act of 1978 should not slow down those investigations, which should be directed towards uncovering the truth.

22. Later, the Special Rapporteur called on the Director-General of the Carabineros, who gave him detailed information about alleged violations of human rights in which carabineros were reported to be implicated. The National Director assured him that only in two or three cases had it been necessary for him to adopt administrative sanctions against personnel under his orders, as the remainder of the complaints submitted to the Special Rapporteur had been based on misrepresentations of the facts. It was

also stressed that ICRC officials may visit Carabineros stations without prior notice, in order to ascertain the state of health of the detainees in those premises.

23. In the afternoon of that day, the Special Rapporteur was received by the President of the Supreme Court, with whom he discussed questions relating to the activities of the Judiciary, as well as the difficulties involved in implementing specific legislation. The President of the Court stated that he had no knowledge of the numbers of the cases alleged to have been transferred from military to ordinary justice. He also underscored the absence of co-operation on the part of agencies involved in the administration of justice, especially the different police forces, in the more important investigations being conducted into serious violations of human rights by a number of inspecting magistrates. Finally, the President of the Court expressed support for the establishment of a judicial police force.

24. Later, the Special Rapporteur visited the Women's Prison located in the Calle Santo Domingo de Santiago where, after being received by the senior prison officers, he requested and was granted permission to have private interviews with eight detainees forming part of a larger group which describes itself as "political prisoners". He received from them a detailed account of their arrests and the ill-treatment to which, according to them, they had been subjected during the period of their interrogation by the police, when they had been held in solitary confinement. Most of the women stated that they had been tortured by means of electric shocks to the most sensitive parts of the body, in order to obtain extrajudicial self-incriminating statements from them. The detainees also spoke of alleged procedural abuses in the handling of their cases, particularly by the Military Prosecutors. For instance, one of the women interviewed, Ledy Del Carmen Castro Urra, informed the Special Rapporteur that she had been arrested four years earlier by CNI agents and since then had been waiting to be tried by the Third Military Prosecutor's Office for the alleged offence of unlawful possession of arms. According to her, the charge was based exclusively on the "confession" obtained by CNI agents during the interrogation in which she claimed to have been subjected to torture, including repeated beatings and threats of death, as well as electric shocks through electrodes. As far as the situation concerning her trial was concerned, she had a feeling of helplessness, since she had never been subjected to a judicial examination and her lawyer had never had access to the pre-trial proceedings.

25. On 7 October 1988, the Special Rapporteur was received at the Law Courts by Judge Carlos Cerda, who told him about the investigation assigned to him concerning 10 cases of missing prisoners. He recalled that in October 1986 his investigation had been suspended by decision of the Supreme Court and that his alternate had ordered the dismissal of proceedings, pursuant to the Amnesty Act. He said that the complainants had filed an appeal to vacate in the Supreme Court against the decision concerning dismissal and that a verdict on the appeal was pending. Consequently, throughout that entire period the actual judicial investigation had not made any progress. As far as the question of substance was concerned, the Judge expressed the opinion that the Amnesty Act ought not to apply to the case, since the persons involved in the offences of disappearance were also implicated in offences of unlawful association, which had the characteristic of being continuous in time and extending beyond 1978, when the Amnesty Act was approved.

26. The Special Rapporteur then had a working meeting at the Ministry of Foreign Affairs with Ambassador Calderón Vargas, to whom he spoke of his concern about the judicial incommunicado detention that may be ordered under article 11 of the Anti-Terrorism Act. He pointed out that it would be desirable for prisoners held incommunicado to be able to have access to ICRC officials, their relatives and to doctors of their choice. He also repeated that it would be desirable for the Government to set up a judicial police force which would provide effective assistance in judicial investigations.

27. On the afternoon of the same day, the Special Rapporteur was received by the inspecting magistrate José Cánovas Robles, who is conducting the judicial investigation into the throat-cutting of three teachers in March 1985. Judge Cánovas spoke about the events of the case, pointing out that some of the carabineros against whom orders initiating criminal proceedings had been issued had later been acquitted by the military courts. The carabineros allegedly implicated in the three assassinations all belonged to the former "Dirección de Comunicaciones de Carabineros" (DICO CAR). He stressed the fact that he had not been able to make progress in the investigation due to insufficient co-operation by the various police forces. In conclusion, he said that he did not even have an official car with a driver at his disposal to enable him to make the relevant inquiries. In his view, the establishment of a judicial police force would contribute to the better investigation of cases assigned to it.

28. Subsequently, the Special Rapporteur received at his ECLAC offices five persons who had expressed a desire to meet him privately and who presented their demands relating to: a case of what appeared to be illegal expropriation of a dwelling; the situation of an alleged leader of the "11th September Commando" who is in detention; the death of a young worker in August 1988 during the attack by a commando of the so-called "Manuel Rodríguez Patriotic Front" on a vehicle transporting money; and a statement on the role and importance of the armed forces in Chile.

29. Later, the Special Rapporteur was received by inspecting magistrate Aquiles Rojas, who is investigating the violent deaths of four political opponents in September 1986. Apparently, persons identified with the "11th September Commando" have claimed responsibility for those acts and the magistrate's investigation is therefore concentrating on identifying its members, some of whom, in his opinion, might be army officers. However, the investigation is being hampered by a lack of sufficient co-operation by the police; for that reason, Judge Rojas also advocated the establishment of a judicial police force.

30. The Special Rapporteur ended his day's work in the evening, meeting the leaders of the Chilean Commission on Human Rights, who expressed their concern at the arrests and apparent ill-treatment perpetrated by carabineros on the occasion of street demonstrations to celebrate the result of the plebescite. He was also informed of three violent deaths allegedly at the hands of the carabineros. The development of the human-rights situation in Chile in the course of 1988 was also reviewed.

31. On the morning of Saturday, 8 October 1988, the Special Rapporteur met four lawyers belonging to the legal department of the Vicaría de la Solidaridad. According to their report, which was accompanied by ample documentary evidence, the number of administrative arrests that had occurred

during the first six months of the year was much higher than that recorded for the same period in the previous year (1987); threats and intimidation against the security of individuals on political grounds had also increased. They also indicated concern at the continuing phenomenon of the torture of persons arrested for political reasons, especially during the period of incommunicado detention in which they are subjected to questioning, both in Carabineros stations and in certain Police Department premises. They also mentioned to the many actions brought by the Government against journalists and dissidents who published critical comments in the press; such actions entailed a serious infringement of the exercise of freedom of opinion and information. The common feature of ongoing judicial investigations into the so-called causes célebres (the case of the burnings, throat-cuttings, the case of the four persons murdered in September 1986 and the persons killed in the "Albania operation") is lack of progress, which the lawyers ascribe to a lack of interest on the part of the Military Prosecutors or a lack of police assistance to the civil investigating judges. They also pointed out that the Supreme Court had recently adopted surprising procedural decisions in respect of important cases of alleged human-rights violations. Finally, with regard to the proceedings undertaken by the Military Prosecutor Torres Silva in the notorious case of the Lautaro bakery, in which two officials of the Vicaría de la Solidaridad were awaiting trial, the lawyers said that they were concerned because the Military Prosecutor in question is pressing for an investigation of the internal activities of the Vicaría, which are protected by professional confidentiality. Specifically, they stated that on 6 October 1988 the Military Prosecutor applied to the Vicaría for the list of staff in the Vicaría's finance department in 1986. The lawyers have reacted to this demand by filing a complaint in the Military Appeal Court.

32. Later, the Special Rapporteur met eight representatives of the Committee for the Defence of the People's Rights (CODEPU), who expressed their concern at the persistence of what they described as "systematic torture" in secret detention centres and in carabineros stations. They were particularly concerned at the way in which Act No. 18,314, known as the Anti-Terrorism Act, and in particular article 11 of the Act, were being implemented. They also spoke of the ill-treatment allegedly suffered by those who described themselves as "political prisoners" in a climate of insecurity and arbitrary measures inflicted on these prisoners in gaols, as well as on relations who visited them. They said that the former Public Prison in Santiago was being converted into a security compound for persons charged with terrorist offences. Six persons then made statements to the Special Rapporteur, reporting a case of alleged arbitrary detention and ill-treatment, a case of an unlawful search of a private house, a case of assassination by torture in a Carabineros station, a further case of detention and arbitrary incommunicado confinement for 15 days, and finally a case of unlawful detention with physical coercion.

33. In the afternoon of that day, the Special Rapporteur had a second meeting with Special Military Prosecutor Fernando Torres Silva. He summarized the complaints made most frequently by the defence lawyers concerning the Military Prosecutor's conduct of the investigations on the illegal arms caches, the attack on the presidential cavalcade, the kidnapping of Colonel Carreño and the attack on the Lautaro bakery, namely: misuse of the criminal definitions established in the Firearms and Explosives Control Act and in the Anti-Terrorism Act; the use of extrajudicial confessions to convict accused persons; concealment of the use of unlawful coercion during interrogations in

order to obtain confessions; improper use of measures to make detention more difficult, such as extended incommunicado detention, solitary confinement of prisoners or the use of fetters or handcuffs; unjustified extension of the investigatory powers of the magistrate, as seen in the arrest of persons unconnected with the proceedings; the extension of the pre-trial detention of accused persons; repeated acts by the Military Prosecutor giving grounds for legal impediment and challenge, such as violations of the confidentiality of proceedings; impeding the right to a defence, etc. The Military Prosecutor rejected those charges, alleging that he had embarked on the investigations only two and a half years earlier and that they were highly complex, since they are aimed at uncovering a very selective and very well prepared terrorist phenomenon organized under the mantle of the Manuel Rodríguez Patriotic Front. This terrorist group consists of a large number of extremely dangerous university teachers. He also stressed that the serious nature of the offences under investigation called for very careful inquiries.

34. Finally, on the afternoon of the same day, the Special Rapporteur had a meeting with the Minister for Foreign Affairs, who granted him a further interview during his stay in Santiago. On this occasion, the constructive aspects of recent developments in human-rights issues were reviewed. The Special Rapporteur stressed other negative aspects which required a more active stand on the part of the authorities, such as appropriate police assistance to inspecting magistrates investigating important cases of human-rights violations. He also expressed concern about the implementation of article 11 of the Anti-Terrorism Act, since it allows the court to order detainees under interrogation to be held incommunicado for 10 days. He also expressed concern at the unabated continuation of the phenomenon of torture which, although not systematic, appears to be selective, in relation to persons detained for political reasons. The Special Rapporteur recalled that legal action is being impeded by a system of military justice that has extended its jurisdiction and is inactive in investigations relating to violations of human rights. The Minister stated his Government's views on those allegations and emphasized its desire to co-operate with the Special Rapporteur, and to maintain the outcome of the plebiscite and the times set for the presidential and parliamentary elections in 1989.

35. The Special Rapporteur also handed over two letters, dated 8 October 1988, addressed to Ambassador M. Calderón Vargas. In the first letter, he drew attention to the need to create a judicial police force to work together with the courts in the investigation of criminal acts; he requested that that recommendation should be brought to the attention of the competent governmental authority. In the second letter, the Special Rapporteur urged the competent authorities to initiate action to amend article 11 of the Anti-Terrorism Act so as to prevent incommunicado detention for lengthy periods, as well as action in respect of visits by relatives accompanied by a private doctor, and visits by ICRC officials.

36. On Sunday, 9 October 1988, the Special Rapporteur sent a letter to the Minister for Foreign Affairs relating to the interview held on the previous day. He attached a list of seven persons alleged to have been convicted for illegally entering the country, and requested application of the principle pro reo in their regard. As well as referring to the notorious problems raised by article 11 of the Anti-Terrorism Act, the Special Rapporteur requested in his letter a reform of the Code of Penal Procedure in respect of judicial incommunicado detention so as to allow access to incommunicado

detainees by doctors from the legal service, doctors selected by relatives of the detainees and the relatives themselves, and free access by ICRC officials to enable them to carry out their humanitarian mission. The Special Rapporteur also attached a list of 19 persons who are serving sentences and who have repeatedly requested prison privileges, or the possibility of a pardon or exile instead of custodial penalties. Strictly humanitarian considerations led the Special Rapporteur to submit these requests to the Government.

37. On the morning of 9 October, the Special Rapporteur met representatives of various non-governmental organizations. He received at his ECLAC offices three representatives of the Committee for the Defence of the People's Rights (CODEPU) of the Fifth Region, who spoke of complaints concerning the alleged torture of persons detained for political reasons, as well as alleged irregularities by Military Prosecutors in the handling of eight cases against political dissidents; they also reported the large-scale intimidation of many political opponents by means of anonymous letters signed by the secret organization known as the "Hussars of Death Nationalist Front".

38. Later, five representatives of the Christian Churches' Foundation for Social Welfare (FASIC) called on the Special Rapporteur. They drew attention to cases of various individuals who were still serving sentences for illegal entry, despite the lifting of any administrative ban on entry to Chile. They also drew attention to cases of individuals held for political reasons who were reportedly denied access to prison privileges due to obvious arbitrary measures on the part of the members of the Gendarmería, and the cases of 20 persons sentenced to exile who are unable to return since they would need to be pardoned for the unserved portion of the sentence of exile. The lawyers of this organization also reported many irregularities by Military Prosecutors, and particularly by Fernando Torres Silva, in the handling of cases under their jurisdiction.

39. The Special Rapporteur next received two representatives of the Association of Relatives of Missing Detainees, who spoke of the five persons who had disappeared in September 1987, of the lack of progress in the judicial investigations, and of their concern at what they described as the "impunity" of those responsible for such disappearances. They also complain that members of their organization are punished by the Carabineros when they try to demonstrate in public in support of their lawful claims. Later, he was visited by five representatives of the Association of Relatives of Political Prisoners who stressed that they continued to be subjected to harassment whenever they go to prison to visit their relatives; they repeated that all their relatives had suffered torture, incommunicado detention and solitary confinement ordered by Military Prosecutors when they were subjected to police interrogations during the early days of their detention. Finally, they expressed concern at public statements by senior representatives of the Government in support of the death penalty for three of their relatives and requested the release of three persons who were detained and seriously ill (Patricia Roy Jonás, suffering from schizophrenia; Juan Carlos Cancino, held in the Public Prison in Santiago, and Pedro Moya, in the Public Prison at Valdivia, both suffering from cancer).

40. Later, the Special Rapporteur received four representatives of the Association of Relatives of Persons Executed for Political Reasons who expressed concern at the lack of any significant progress in the judicial

investigations they had initiated by their complaints concerning the execution of their relatives. They request the authorities to return the corpses of the persons executed so that they may have a proper burial. Next came the Executive Secretary of the Committee for the Return of Exiles, who described the problems of social rehabilitation that often confront those who return from exile; he also mentioned a number of instances of persecution of recent returnees, and the case of 171 people who were unable to return from exile because they were serving sentences of expulsion. He said that on 14 August 1988 he had submitted to the Minister of the Interior a list of 25 artists and on 8 August 1988 a further list on behalf of 26 former members of the armed forces. Finally, the Special Rapporteur received three representatives of the Association of Lawyers of Political Prisoners, two representatives of the Foundation for the Protection of Children Harmed in States of Emergency, two representatives of the National Anti-Torture Committee, five representatives of the Sebastián Acevedo Anti-Torture Movement and four representatives of the Aymará Indigenous Organization "Yacha Marra Aru" (Voice of the Great People).

41. On Monday, 10 October 1988, the Special Rapporteur received the representative of the Intergovernmental Committee for Migration (ICM), who discussed the lack of significant progress in the judicial investigation of the attack on the ICM Office in Santiago on 31 December 1986. On that occasion, a heavily armed commando entered the office, wounding several of its staff, destroying equipment and removing certain documents. The representative stated that the persons responsible identified themselves as belonging to the "11th September Commando", which is alleged to be made up of persons belonging to the armed forces.

42. Later, the Special Rapporteur visited the Judge of the Twentieth Departmental Criminal Court in Santiago, who is dealing with 30 complaints against members of the CNI concerning alleged torture. The offences in question are stated to have been committed during interrogation of the complainants, who had been arrested for allegedly political reasons. The military courts applied to the Supreme Court for conflict of jurisdiction on the grounds that the Departmental Criminal Court was not competent to hear the complaints, as the CNI members were military personnel. The Judge also said that he had been hampered in his investigations by the various police corps which, under the law, are required to provide him with the necessary legal assistance.

43. The Special Rapporteur then paid a second visit to the National Director of Carabineros, to whom he expressed concern at recent reports that a group of journalists, some of them foreign correspondents, had been assaulted by carabineros, within the past few days, while attempting to cover opposition street demonstrations celebrating the result of the presidential plebiscite. The National Director explained that he had ordered a full investigation of the reported incidents. Later, the Special Rapporteur held a large press conference in the ECLAC offices, attended by some 50 representatives of the national and foreign press, radio and television.

44. That same afternoon, the Special Rapporteur held a meeting with Military Prosecutor E. Blanco, who is in charge of the investigation into the circumstances in which serious burns were sustained by two young opponents of the régime, allegedly at the hands of an army patrol. One of them died as a result of his burns. According to the Military Prosecutor, there was no

record of any member of the military patrol having thrown incendiary bombs at the two men; the soldiers had, however, been tried for failing to provide the men with the necessary assistance.

45. The Special Rapporteur then went to Santiago airport, where he took his leave of officials of the Ministry of Foreign Affairs and representatives of ECLAC, whom he thanked for their valuable co-operation. He then left the country.

III. COMPLAINTS OF FURTHER VIOLATIONS OF HUMAN RIGHTS

46. The information contained in this section is taken from legal documents received by the Special Rapporteur during his fourth visit to Chile from the persons concerned, their lawyers or Chilean human-rights organizations. The information relates to alleged violations of human rights during 1988.

47. The Special Rapporteur passed on these complaints to Ambassador M. Calderón Vargas in San José on 7 February 1989 for comments by the Government, and expressed his concern at the information contained in them. This does not imply, however, any prejudgement by the Special Rapporteur of the merits of the complaints.

48. The complaints are set out below in accordance with the following outline:

- (a) Right to life;
- (b) Right to physical and moral integrity;
- (c) Right to liberty;
- (d) Right to security;
- (e) Right to freedom of expression and information;
- (f) Right to freedom of movement.

A. Right to life

A.1 Juan Fernando Mayorga Millán. Complaint of aggravated homicide lodged on 16 September 1988 with the Presidente Aguirre Cerda Tenth Criminal Court. The complaint states that Juan Mayorga arrived at his sister's home at 11.15 p.m. on 16 July 1988 and left with his identity papers. However, his body was received at the Sótero del Río Hospital that night and registered as that of an unidentified person. It was delivered to the hospital by carabineros from Station No. 13 in La Granja. The carabinero on duty at the hospital told the complainant that her brother had died in a raid on a petrol station in the La Cisterna district. However eye witnesses are reported to have stated that the physical characteristics of the person concerned did not correspond to those of Juan Mayorga.

A.2 Antonio Oviedo Sandoval Cares. Complaint of aggravated homicide lodged on 2 September 1988 with the Eleventh Criminal Court in Santiago. The complainant states that, on 30 August 1988, the victim was in a street in the La Granja district. Suddenly, about six shots were fired at random and in various directions - but with intent to cause injury - by five or six armed

men in plain clothes riding in a minibus. One of the shots struck Antonio Sandoval in the face and he died the following day in Sótero del Río Hospital. According to the complaint, carabineros at the scene made no attempt to pursue the attackers or to assist the victim.

A.3 Edison Freddy Palma Coronado. Complaint of unnecessary use of force resulting in death lodged on 12 September 1988 with the Fourth Military Prosecutor in Santiago. According to the complainant, his son, a 15 year old minor, was taking part in a protest march on 30 August 1988. After the demonstration had been broken up by the police, a police officer fired two shots at his son, killing him. Members of Peñalolén Carabineros Unit were at the scene, and members of Station No. 16 arrived later.

B. Right to physical and moral integrity

B.1 Domingo Faustino Sarmiento Flores. Complaint against members of the Carabineros and the National Information Agency lodged on 26 April 1988 with the First Criminal Court in San Miguel for unlawful arrest, use of torture, unnecessary use of force, unwarranted solitary confinement and theft. The complainant states that he was arrested at his home on 10 March 1988 and taken hooded to Carabineros Station No. 12 in San Miguel, where he was kicked and punched on the head and in the ribs, given electric shocks on sensitive parts of his body, and subjected to a mock firing squad and to death threats against himself and his relatives. Later, he was again tortured by persons whom he presumes to have been members of Special Carabineros Group OS4 or the National Information Agency. He states that he recognized one of the torturers as Carabineros Captain Iván Araya Carvallo.

B.2 Jorge Luis Cortez Colina. Complaint lodged on 14 July 1988 with the Eighteenth Criminal Court in Santiago. The complainant states that he was arrested on 17 May 1988 and taken to Carabineros Station No. 7 in Renca, where he was blindfolded, handcuffed and beaten. He alleges that he was given electric shocks on particularly sensitive parts of his body, causing violent convulsions. He says that his teeth were damaged by the blows he received. It should be noted that, on 9 May 1988, Jorge Cortez had lodged an early application for amparo with the Santiago Court of Appeal (case No. 535-88), which was rejected on 25 May 1988.

B.3 Franyo Zapata Nicolis, Diego Lira Matus and Miguel Montecino Montecino. Complaint of bodily injury and threats lodged on 20 July 1988 with the Tenth Departmental Criminal Court in Santiago. The complainants state that on 2 July 1988, while on their way to see Gendarmería Major Domingo Unda, they were attacked without warning by members of the Gendarmería under the command of Lieutenant Parra, and were kicked, punched and struck with truncheons. The complaint is supported by the Association of Relatives of Political Prisoners, the National Association of Political Prisoners and 90 political prisoners (see below, case D.3).

B.4 Ricardo Alberto Paredes Caro and Marcos Antonio Abarca González. Complaint of grievous bodily harm lodged on 25 August 1988 with the Twentieth Criminal Court in Santiago against Juan Carrasco and Francisco Pincheira. The complainants state that, on 9 July 1988, while in the street, they were wounded by shots fired by one of the accused, who were dressed in plain clothes. The shots are said to have been fired without any verbal warning.

B.5 Claudio Fernando Escobar Reyes. Action brought before the Santiago Court of Appeal on 12 July 1988. The complainant states that, on 10 July 1988, he was arrested and taken to Carabineros Station No. 3, where he was blindfolded and questioned. He further states that, during the interrogation, he was kicked, given electric shocks and threatened with death.

B.6 Francisco Osses Osorio. Complaint of unnecessary use of force resulting in minor bodily injury lodged with the Office of the Fifth Military Prosecutor in Santiago on 19 August 1988 against carabinero Héctor González Poblete of Santiago Carabineros Station No. 32. According to the complainant, on 11 July 1988, the taxi he was driving was stopped in the centre of Santiago by the above-mentioned carabinero, who ordered him to switch off the engine. When the complainant replied that he could not because of a mechanical problem, González proceeded to hit him, aided and abetted by other carabineros, apparently members of the Special Forces.

B.7 Enrique Octavio Quintanilla Lillo. Complaint of unlawful arrest, detention in solitary confinement and bodily injury lodged with the Santiago Court of Appeal on 22 July 1988. According to the complainant, the injuries he sustained were the result of a beating received at his place of detention on 15 July 1988. Report No. 9006/88 of 22 July 1988 of the Clinical Section of the Forensic Medical Service certifies that the complainant sustained: injuries to his extremities, caused by blows with a blunt instrument and/or other physical means; three healed abrasions on the left elbow and two on the right elbow; and residual signs of ecchymosis on the left leg.

B.8 Juan Raúl Cáceres Espinoza. Complaint of bodily injury lodged with the Fifth Military Prosecutor in Santiago on 17 August 1988 against Marcello Opaso of Calera de Tango Carabineros Station. The complainant states that, on 31 July 1988, he was punched and beaten with a truncheon at the above-mentioned Station by carabinero Opaso, and sustained multiple contusions of the ribs, one broken rib, and a fracture of the posterior arch of the eleventh rib.

B.9 Luis Dante Longoni Vasquez. Complaint of the unnecessary use of force lodged with the Air Force Prosecutor in Santiago against members of the Air Force on 19 August 1988. The complainant states that, on 3 August 1988, his son was intercepted on a street in La Cisterna by members of the Air Force who asked him to identify himself. At that moment, he was shot in the back. The bullet fractured his spinal column and inflicted stomach injuries. The medical opinion is reported to have been that, if he survived, Luis Longoni would be a permanent hemiplegic.

B.10 Iván Vera Medina and José Hernández Corvalán. Complaint of unlawful arrest, the unnecessary use of force resulting in bodily injury and threats, lodged with the Seventeenth Departmental Criminal Court in Santiago on 12 August 1988. According to the complainants, on 8 August 1988, they were intercepted in the street by three armed men in plain clothes who proceeded to punch and kick them. They were then taken to Carabineros Station No. 36 in Vicuña Mackenna, where they were reportedly stripped, beaten and kept without food and water throughout the day and threatened with death.

B.11 Claudio Leiva Sepúlveda (Case No. 1372-88). Complaint against members of the carabineros belonging to the 30th Radio Patrol Unit concerning the unnecessary use of force resulting in serious physical injury, lodged with the

Fourth Military Prosecutor in Santiago on 8 September 1988. According to the complainant, on 11 August 1988, his grandson, who suffers from a limp, was shot in the head by an unidentified carabinero, who immediately fled. Other carabineros subsequently encircled the area, permitting no one to approach or assist the victim.

B.12 Carolina Fuentes Pereira. Complaint of kidnapping, rape and threats lodged with the Second Criminal Court in San Antonio on 22 August 1988. The complaint states that, on 17 August 1988, Carolina Fuentes was stopped in the street by three individuals and forced into a car and kept there all night. She was questioned about her membership of the Workers' Union at CORESA SA, and beaten and raped by her captors.

B.13 Luis Espinoza González. Complaint of unnecessary use of violence by carabineros from Roosevelt Station in the Cerro Navia shanty town, lodged on 31 August 1988 with the First Military Prosecutor in Santiago. The complainant states that, on 30 August 1988, his son was punched, kicked and beaten about the face with rubber objects by three carabineros in the street.

B.14 John Remmele Hamberger. Complaint lodged on 31 August 1988 with the First Military Prosecutor in Santiago against members of the Carabineros concerning unnecessary use of force resulting in bodily injury. The complainant, an American priest of the Mary Knoll Congregation, states that, during the night of 30 August 1988, when he was a short distance from his home, he was assaulted by a group of carabineros, without any attempt being made to identify him and without a single word being exchanged with him. The blows received resulted in bruising, split lips and a fractured left cheekbone, as well as a deep lesion on the back of the skull. The American lay missionary of the Mary Knoll Congregation, Lind McCloskey, states that she was also beaten on the same occasion.

B.15 Waldo Ernesto Seydewitz Valenzuela (Case No. 352-88). Complaint lodged on 16 September 1988 with the Santiago Court of Appeal. According to the complainant, on 3 September 1988, he was arrested and taken to Lo Barnechea Carabineros Station, where he was punched and berated for being an active member of the Party for Democracy (see case D. 9, below).

B.16 Nelson del Tránsito Paredes Manzor, Rodrigo Alberto Oliva Celis and Martín Enrique Miranda Tapia. Complaint of unnecessary use of force lodged on 16 September 1988 against the lieutenant in Villa de Alhué, identity unknown, Carabineros Corporals Gerado Meripé and Sepúlveda, carabineros Christian Foré, Mérida and Valle, and others belonging to the Alhué detachments and the Civil Commission of Melipilla Station. Complaint lodged with the Fourth Military Prosecutor in Santiago. The complainants state that, on 9 September 1988, the home of Rodrigo Oliva and Martín Miranda was ransacked by Corporal Sepúlveda and carabineros Foré, Mérida and Valle, dressed in plain clothes, without any search warrant being shown. They were taken to Alhué Station, where they were kicked and punched. After being released, they were re-arrested, on this occasion with Nelson Paredes, by four men in plain clothes who identified themselves as police officers. They state that they were then not only beaten but also tortured by having water hoses forced into their mouths and the water left running until they were on the verge of asphyxiation.

B.17 Guillermo Alex Cáceres Astudillo and Jorge Antonio Muñoz Muñoz.

Complaint lodged with the Third Military Prosecutor in Santiago on 16 September 1988 against officers from Carabineros Station No. 7 in Renca, for the unnecessary use of force resulting in physical injury to Guillermo Cáceres, 10 years of age, and Jorge Muñoz, 12 years of age. According to the complainants, the boys were kicked and beaten with truncheons on various parts of their bodies by two carabineros in the street during the night of 10 September 1988. They state that, as a result of the blows received, Guillermo Cáceres suffered a ruptured sphincter. The complainants also state that, when they went to the Carabineros Station in search of the injured boys, they were subjected to ridicule and obscene gestures by members of the Carabineros.

B.18 Hugo Rivas Lombardi. Complaint of minor injuries lodged with the Eighth Departmental Criminal Court in Santiago on 27 September 1988. The complainant states that, on 18 September 1988, on going out to protect his younger daughter who was being attacked for carrying a banner advocating a "No" vote in the plebiscite, he was surrounded by six individuals who struck him about the head and shoulders, causing a scalp wound and haematomas on various parts of his body. The officer on duty at Carabineros Station No. 2, Captain Pérez, ordered the complainant to be arrested and to pay a fine of 2,000 pesos before being released.

C. Right to liberty

C.1 Oscar Guillermo Garretón Purcell. In ruling No. 7909 of 8 September 1988, the Supreme Court rejected the complaint lodged by Oscar Garretón against the judges who had found him guilty. He stated that he had not engaged in any conduct which would meet the criteria established in article 274 of the Code of Military Justice. He said that, on 2 August 1973, in his capacity as representative of Concepción, he had merely attended a meeting at which Sergeant Juan Cárdenas Villablanca had explained to him his plans for a mutiny. The complainant says that he called the plans madness and refused to give Sergeant Cárdenas the support he asked for. In his complaint, he maintains that the testimony provided by the ringleaders of the mutiny clearly shows that his role had been completely peripheral.

C.2 Jorge Arturo Martínez Muñoz (Case No. 860-81). In a decision of 15 July 1983, the Supreme Court sentenced Jorge Martínez to 15 years and one day of rigorous imprisonment in the maximum degree for the offence of illegal entry into Chile in October 1980 and to the secondary penalties of disqualification for life from holding public office or exercising political rights, and disqualification from practising a profession during the term of the sentence. The decision was based on the provisions of article 4 of Decree-Law No. 81 of 1973, preceding Act No. 18,015, article 1, paragraph 3, of which provides for less severe penalties. It should be noted that, on 28 August 1986, Jorge Martínez was included in the list of 200 exiles authorized to return to Chile. Nevertheless, he has been in prison since November 1981 and is still serving his sentence.

C.3 Elías Salomón Huaquimil Catril and Luis Eduardo Espinoza Fuentes.

Application for amparo to the Military Appeal Court. The applicants state that the persons in question, who were witnesses in case No. 1444-84 resulting in the detention and death of Juan Antonio Aguirre Ballesteros, presented themselves on 23 August 1988 to give their respective testimonies and were

threatened by Special Military Prosecutor Edgardo Oviedo with detention and solitary confinement if they did not testify as he wanted. This threat was carried out on 25 August 1988, when the Military Prosecutor ordered them to be detained in solitary confinement for a period of five days.

C.4 María Asunción Bustos, Victoria Gallardo, Teresa Rojo, Teresa Gómez Meyer, Sandra Radic and 14 other persons (Case No. 1087-88). Application for amparo lodged on 29 August 1988 with the Santiago Court of Appeal. The above-mentioned persons are reported to have been arrested by carabineros on 29 August 1988 in the Plaza de Armas, Santiago, at the end of a peaceful meeting of the "Mothers for Life" Association.

C.5 Nelson Alejandro Carvajal Salinas (case No. 1101-88). Application for amparo lodged with the Santiago Court of Appeal on 30 August 1988. The subject of the application is stated to have been arrested on 30 August 1988, outside the University of Chile, by carabineros of the Special Forces.

C.6 Carlos Carrasco González, Daniel Paulus, Leandro Sepúlveda, Tito Soto and Alejandro Hidalgo (Case No. 1114-88). Application for amparo lodged with the Santiago Court of Appeal on 31 August 1988. The application states that the persons in question were arrested on 31 August 1988 inside the Metropolitan University of Santiago and taken to Carabineros Station No. 18 at Nuñoa.

C.7 Rodrigo Daniel Paz Henríquez (Case No. 1177-88). Application for amparo on behalf of Rodrigo Paz, a student at the Catholic University of Santiago, lodged on 9 September 1988 with the Santiago Court of Appeal. The applicant states that the subject was arrested in the centre of Santiago on 6 September 1988, taken to Carabineros Station No. 1 in Calle Santo Domingo and brought without warning before the Military Prosecutor for allegedly having assaulted members of the Carabineros. According to the applicant, that decision was based on the fact that a carabinero had recognized Rodrigo Paz as one of the advisers of the Catholic University Students' Federation.

C.8 Claudio Andrés Meneses Labraña. Application for amparo lodged with the Santiago Court of Appeal on 8 September 1988. The applicant states that the subject was arrested on 8 September 1988 by four members of the Police Department while leaving the premises of the Chilean Commission on Human Rights, where his mother worked.

C.9 José Santiago Navarrete Pereira, Omar Lliezer Herrera Martínez, José Abdón Cid Amaya and Gonzalo Torres Cid. Application for amparo lodged with the Presidente Aguirre Cerda Court of Appeal on 1 October 1988. The subjects of the application are said to have been arrested at their homes on 30 September 1988 by members of the Police Department. The applicant states that the police officers destroyed the personal identity papers and electoral registration documents of the subjects in the course of arresting them.

D. Right to security

D.1 René García Villegas. Remedy of protection dated 5 November 1987 before the Santiago Court of Appeal. The Judge officially responsible for the Twentieth Criminal Court in Santiago, René García, complains that since August 1986 he has been receiving death threats and been subjected to numerous acts of intimidation, that he has been followed and that his movements have been watched. He states that these acts have also been committed against his

wife Violeta Carrasco de García, and his sons Juan and Alvaro García. Subsequently, through Official Communication No. 2085 dated 28 September 1988 to the Supreme Court of Justice, he reiterates and elaborates on those complaints. It should be pointed out that since 1985 René García, as officially appointed Judge has had jurisdiction as regards complaints concerning torture lodged against members of the National Information Agency (CNI) (see below, case E.1).

D.2 Rubén Ibáñez López, Nolasco Tobar Vergara, Alex Mario Mardones and other inhabitants of shanty towns in Santiago (Case No. 200-88). Remedy of protection dated 6 June 1988 before the Santiago Court of Appeal. The applicants complain that on 28 May 1988 the shanty towns in the communes of Cerro Navia and Estación Central were subjected to illegal raids by members of the police and security forces, who were not in possession of search or arrest warrants and caused damage to buildings.

D.3 Franyo Zapata Nicolis, Diego Lira Matus and Miguel Montecino Montecino. Complaint dated 20 July 1988 before the Tenth Criminal Court (Departmental) in Santiago (see above, case B.3). The complainants state that both the relatives and the lawyers of political prisoners have received anonymous letters containing death threats from an organization styling itself the "Frente Nacionalista Húsares de la Muerte" (Hussars of Death Nationalist Front). They say that these letters have been sent to the addresses which relatives have entered in the prison visitors' books.

D.4 Raúl Sergio Somadevilla Rivas. Remedy of amparo dated 12 July 1988. On 10 July 1988, his home was allegedly broken into by two persons wearing green uniforms and by eight unidentified civilians, who destroyed the roof of the house and asked about an alleged weapon. Raúl Somadevilla is alleged to have been beaten and taken away to an unknown destination, blindfolded and tied up.

D.5 Avelina Cisterna Aguirre. Early application for amparo to the Santiago Court of Appeal. According to the applicants, on 22 July 1988 five civilians who identified themselves as members of the National Information Agency presented themselves at the workplace of the subject of the amparo proceedings; when they did not find her, they asked for her private address, uttering threats when it was not furnished to them.

D.6 Livio Ciangherotti Ciangherotti. Complaint dated 5 August 1988 for theft submitted to the Seventeenth Criminal Court in Santiago. The complainant states that on 26 July 1988 about 15 individuals, some in civilian clothes and others dressed in olive green, broke into his home, smashing open the door and proceeding to handcuff him. He complains of having been interrogated, threatened and insulted, but not beaten; he also complains of the theft of various belongings, mainly tools, which took place during the break-in.

D.7 Alicia Odette Muñoz Jara (Case No. 437-88). Early application for amparo dated 26 August 1988 to the Santiago Court of Appeal. The applicant complains that on 21 August 1988 an attempt was made to run her over by three individuals travelling in a van. She also states that since 9 August 1988 she has been followed on various occasions by a car after leaving the Party for Democracy Office in the commune of El Bosque in Santiago to return to her home. She states that she has continued to be followed by another car having the same registration plate as the previous one.

D.8 Luis Alberto Moreno Correa. Early application for amparo dated 1 September 1988 to the Santiago Court of Appeal. The applicant states that on 31 August 1988 his parents' home was broken into by members of the Police Department who were looking for the subject of the amparo proceedings, Luis Moreno.

D.9 Rogelio Eduardo Fuentes Bravo, Waldo Ernesto Seydewitz Valenzuela, Richard Orison Vega Waghorn, Mónica Ruth Vega Quilodrán, Margarita del Carmen Vega Quilodrán and Mery Vega Quilodrán (Case No. 352-88). Remedy of protection dated 16 September 1988 before the Santiago Court of Appeal. The applicant states that since 1 September 1988 the above-mentioned persons have been receiving at their homes telephone calls threatening them with death. Also, Rogelio Fuentes complains that his home is being watched from various vehicles. He states that both he and Waldo Seydewitz and Richard Vega are active members of the Party for Democracy.

D.10 Nelson Héctor Rolando Nicolau, María Soledad Kunstmann Almarza, Soledad Andrea Rolando Kunstmann and María Inés Osorio Romero (Case No. 329-88). Remedy of protection dated 9 September 1988 before the Santiago Court of Appeal. María Kunstmann states that since 1 September 1988 she has received at her home many anonymous telephone calls threatening to kidnap and kill her daughter Soledad Rolando. She states that the persons making the calls obviously know a lot about her daughter's daily movements. She further states that Nelson Rolando is the president of one of the district branches of the Party for Democracy in the commune of La Reina in Santiago, and that she, too, is an active member of that political organization.

D.11 Inhabitants of the commune of Cerro Navia. A complaint dated 12 September 1988 before the Director-General of Carabineros of Chile. Various inhabitants of the commune of Cerro Navia, and of La Viñita shanty town in particular, complained about various acts of violence committed by carabineros during the night of 11 September 1988. According to the complainants, carabineros rushed violently into the commune, causing damage, breaking windows, throwing tear-gas canisters, insulting the inhabitants and in some cases firing shots. Some inhabitants were injured by falling glass, and several children are alleged to have suffered psychological traumas.

D.12 Grecia de Yanira Vargas Valencia and Manuel Jesús Henríquez Toro (Case No. 474-88). Complaint dated 27 September 1988 before the Santiago Court of Appeal. Grecia Vargas states that on 15 September 1988 she was molested in the street by carabineros in a police van and insulted because of her work as secretary of the Parish of Nuestra Señora Reina de los Apóstoles. She further maintains that on 25 September 1988 her home was broken into by carabineros without an arrest or search warrant. She states that on that occasion the persons present in her home, including her three-month old nephew, Israel Vargas Vargas, were beaten and that her mother, Viviana del Carmen Valencia, was insulted.

D.13 Víctor Rafael Aldea Ramos (Case No. 56-88). Remedy of protection dated 24 September 1988 before the Presidente Aguirre Cerda Court of Appeal. The applicant states that on 1, 7, 16, 21, 22 and 23 September 1988 he received various telephone calls of a threatening character. He further complains that his home was watched by four individuals in a car, who also followed him on

his way home from work. He states that he works as a doctor at the Centre for Health Research and Action (CIASPO) and at the Integral Centre for Mental Health (CISME).

D.14 Liliana del Carmen Manríquez Solano, Carlos Reyes, Elizabeth Soto and Rosa Muñoz Mora. Early application for amparo dated 29 September 1988 before the Presidente Aguirre Cerda Court of Appeal. Liliana Manríquez complains that on 27 September 1988 supposed members of the National Information Agency arrived at Las Turbinas, a shanty town in La Cisterna, with the intention - subsequently thwarted - of arresting Carlos Reyes and other inhabitants who had opposed the filming of a television "spot" for the "Yes" campaign before the plebiscite.

D.15 Adriana González Barrios and Miguel Angel Aguilar Cerón. Remedy of amparo dated 30 September 1988 against officers from the police station in the José María Caro shanty town in the commune of La Cisterna, applied for in the Presidente Aguirre Cerda Court of Appeal. Adriana González complains that on 30 September 1988 she was intercepted in her car by officers from the above-mentioned police station, who asked for the documents proving ownership, insurance and testing of the vehicle, and refuse to return them if she did not give them money in exchange. She adds that this was not the first time that she has experienced this.

D.16 Rodrigo Mario González López, Luz María Navarro Ceardi, Mariana González Navarro and Amparo González Navarro. Early application for amparo dated 3 October 1988 before the Santiago Court of Appeal. Rodrigo González complains that on 3 October 1988 the outer door of his home was hammered on by two individuals who threatened and insulted himself and his wife; they allegedly had the intention, eventually, thwarted, of knocking down the door and entering the dwelling.

D.17 Johanna María Benech Marambio. Remedy of amparo dated 7 October 1988 before the Santiago Court of Appeal. The applicant states that on 5 October 1988 she was intercepted in the street by carabineros and then taken to a room where she was interrogated by civilians. She complains that during the interrogation she was beaten with bandaged fists and insulted. She also complains that, since her release, her home has been watched. It should be pointed out that when these events occurred, the applicant was president of the student centre in the School of Philosophy at the Catholic University of Chile.

E. Right to freedom of expression and information

E.1 René García Villegas. By a decision of the Supreme Court of Justice dated 25 March 1988, the Judge of the Twentieth Criminal Court in Santiago was informed of "the inappropriateness of making statements to the press such as those which were published in edition No. 222 of the magazine Apsi, basing himself therefor on knowledge acquired from current cases and pre-trial proceedings in his own court". Later, by a decision dated 20 May 1988, the Supreme Court disciplined Judge René García by issuing a private warning (see above, case D.1).

E.2 Filma Canales Sore (Case No. 85-85). By judgement No. 92 dated 29 April 1988, handed down by the Second Military Court in Santiago, the journalist Filma Canales was sentenced to 541 days' imprisonment in the middle

degree for slighting the armed forces. She was also sentenced to the additional penalty of suspension from public posts and offices for the period of the sentence. Filma Canales remains subject to surveillance by the competent administrative authority for a period of two years. The judgement was based on the article published by her in the January-February 1985 edition, No. 336, of the magazine Mensaje on the film Foryo, in which she stated that the film "gives some idea of what happens in Chilean barracks, places of interrogation and prison camps".

F. Right to freedom of movement

F.1 Manuel Antonio Bustos Huerta and Arturo Amador Martínez Molina. By judgement No. 7244 of the Supreme Court of Justice dated 17 August 1988, Manuel Bustos was sentenced to 541 days' restricted residence in the town of Parral; Arturo Martínez was sentenced to 541 days' restricted residence in the town of Chañaral. Manuel Bustos, in his capacity as President of the National Workers' Command, and Arturo Martínez, General Secretary of that trade union federation, called a general strike for 7 October 1987 in support of various claims for wage increases and improvements in working conditions. When the strike call was issued, Arturo Martínez allegedly stated that the strike would be flexible and that there would be no major demonstration. Manuel Bustos was alleged to have said that the purposes of the strike were purely industrial.

F.2 Roberto Oyarzo, Miriam Poblete, David López and other members of the Executive Committee of the National Co-ordinating Council of Human Rights Bodies (Case No. 1157-88). Early application for amparo dated 6 September 1988 in favour of 509 Chilean citizens in respect of whom the ban on entering the country was withdrawn on 31 August 1988, submitted to the Santiago Court of Appeal. The applicants maintain that they are afraid that once the subjects of the amparo proceedings enter Chilean territory, the administrative authorities will take legal action against them.

IV. CONCLUSIONS

49. During his fourth visit to Chile, the Special Rapporteur noted, with satisfaction, that a determination to move towards representative democracy by means of peaceful political solutions, repudiating any form of violence, prevailed among the Chilean people.

50. In fact, the Chileans have renewed their support for the principles of representative government and life which guided them in bright and exemplary years. The plebiscite of 5 October 1988 constituted impressive evidence of that fact, and of the deep-rooted tradition which the aforementioned principles, the main safeguards of human rights, have implanted within the Chilean people.

51. Both the Government and the political parties, with great seriousness and responsibility, put into effect the Chilean people's right to political participation, as guaranteed by article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights, during the process which culminated in the above-mentioned plebiscite.

52. Consequently, the day of the plebiscite in October 1988 constitutes an appropriate introduction to the next election day scheduled for the end of 1989, when the President of the Republic and the National Congress are due to be elected. In this way Chile would have a new legal and political structure which, if used reasonably, would permit the enjoyment of human rights.

53. In order to arrive at the goal desired by Chileans, as well as by the international community, which promotes and watches over freedoms as a basic interest of mankind, it is essential that all the parties involved in the democratic process should contribute to its peaceful development and that they should be willing to find, at any moment, areas of agreement with a view to solving any problems or conflicts that may arise.

54. At the end of four years of his mandate, the Special Rapporteur believes he has serious grounds for hoping that the human rights situation in Chile will improve during 1989 and that the progress made so far will be consolidated. Nevertheless, as he stated during his most recent visit to the country, much remains to be done. For example, light has not yet been shed on the notorious throat-slitting cases, the violent deaths of four government opponents in September 1986, the cases of burnings, and the deaths, also violent, of a number of government opponents during the so-called "Albania operation", although some progress has been made in ascertaining the facts in the case of the burnings. Maltreatment of prisoners, including torture, does not seem to have disappeared. Nevertheless, a change seems to have taken place as far as torture is concerned. Reliable information in the Special Rapporteur's possession suggests that torture is now applied selectively instead of systematically. The change is significant, but there is no doubt that this detestable practice continues to constitute a serious problem. A further source of concern is the odious activity of private groups, apparently close to government forces, which, with cowardly anonymity, intimidate persons actively opposed to the Government, especially persons who have suffered exile and returned to the country. A notable example in this field is the case of the Intergovernmental Committee for Migration (ICM) because, since 31 December 1987 when the serious incidents at the ICM office occurred, no significant progress has been made in the judicial investigations.

55. The alleged arrest and disappearance of five government opponents in September 1987 constitute a very disturbing retrograde step. This grave event is linked with the long familiar cases of arrest and disappearance that have taken place since the installation of the military government in 1973, which are still unsolved and bear painfully on the human rights situation in Chile.

56. A further substantial obstacle to progress or improvement in the human rights situation is constituted by the detestable activities of terrorists, whose victims, in general, are not only members of the police, such as carabineros, but also civilians unconnected with any governmental or political activity.

57. Justice, especially military justice, is still a source of great concern to the Special Rapporteur. Military justice is characterized by the grave deficiencies which the Special Rapporteur describes in this report (see above, paras. 12 and 33). Such deficiencies are a serious obstacle to the enjoyment of human rights in Chile.

58. Despite the negative developments referred to in the preceding paragraphs, thanks to a more constructive attitude on the part of substantial sectors of the Government, together with the persistent and self-sacrificing work of Chilean non-governmental groups that laudably concern themselves with the promotion and safeguarding of fundamental freedoms, important progress has been made in the field of respect for human rights, as stated at the beginning of these conclusions and as the Special Rapporteur stated when introducing his seventh report on the human rights situation in Chile to the Third Committee of the General Assembly in November 1988. This progress includes: the termination of exile and restricted residence; the lifting of the state of siege and other states of emergency; the legalization of political parties; *the entry into force of legislation on electoral service and other related* constitutional organization laws; the exemplary conduct of the plebiscite on 5 October 1988; the agreements concluded with ICRC granting ICRC officials access to persons detained for political reasons; and the decision by senior Carabineros officers to deal with complaints concerning alleged abuses by their subordinates.

59. Consequently, the Special Rapporteur considers that, without overlooking the urgent need to eliminate the factors affecting the proper enjoyment of human rights, the parties involved in the struggle for this higher goal must make further effective efforts to ensure that nothing diverts them from the purpose of making the election day scheduled for late 1989 a reality.

60. The Special Rapporteur wishes to point out that, throughout the present report, other observations are made supplementing those in the present section, which constitutes an effort to condense other important considerations. Several of these considerations have been brought to the attention of Chilean authorities.

61. As was the case during his previous visits to Chile, the Special Rapporteur received broad co-operation from the Government in the course of his fourth visit. He also wishes to emphasize the invaluable assistance he received from ECLAC headquarters in Santiago, and the constant support of the Centre for Human Rights in the discharge of his mandate.

V. RECOMMENDATIONS

62. It is vital that the process of approval of the National Congress Organization Act should be concluded without delay. This legislation is necessary for the establishment of the various representative democratic institutions in March 1990.

63. In order to fulfil its commitment to ensure respect for human rights, it is essential that the Government should devote maximum attention to investigations of the notorious and serious cases of the victims found with their throats slit, the violent deaths of September 1986, the case of the burnings, and the violent deaths that occurred on 15 and 16 June 1987 in the course of the so-called "Albania operation". To this end, it is essential that the police authorities should provide all assistance required by persons undertaking the relevant judicial investigations, especially the Inspecting Magistrates appointed for those purposes.

64. The Government should redouble its efforts to ensure that persons detained and awaiting trial for offences against State security and related offences are treated with respect for their human dignity, and in strict compliance with the relevant provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. This also entails the conduct of the relevant judicial proceedings in accordance with the principles of liberal criminal law, and especially the basic principle of due process.

65. Special mention should be made of unlawful coercion, and above all torture. In order to bring about the total elimination of such ill-treatment at an early date, the Government should take special care to monitor more closely strict compliance with the agreements in force with the ICRC and should also seek to improve those agreements. To this end, it should without delay approve the preliminary bill for the amendment of provisions relating to incommunicado detention contained in the Criminal Procedure Act, as prepared by the Ministry of the Interior's Advisory Commission. Also in connection with unlawful coercion, article 11 of the Anti-Terrorism Act should be amended or repealed without delay, with the aim of ensuring that detainees held incommunicado have access to ICRC officials, their relatives and doctors of their choice.

66. Action should be taken on requests or recommendations by members of the Judiciary for the establishment of a judicial police force that can effectively help persons investigating acts at variance with enjoyment of human rights and, in general, especially serious criminal acts.

67. In the case of the 10 missing detainees, which is being investigated by Judge Carlos Cerda, the Amnesty Act should not serve as an obstacle to the search for the truth about what happened. Consequently, attention should be paid to other factors in the case that will enable the judicial investigation to be continued unimpeded and completed, and enable those found guilty to be punished.

68. A prompt solution should be found for the serious problem caused by the judicial proceedings against 29 journalists, whether these proceedings have been initiated by the Government or by private plaintiffs. In the case of the Government, discontinuance of the proceedings would bring about an improvement in a very worrying situation in the sphere of protection of human rights. In the case of the private plaintiffs, a constructive attitude on the part of the Government, and in groups devoted to safeguarding those rights, could well achieve positive results.

69. The Government should devote due attention to the case of the raid on the ICM office in view of the particular seriousness of this matter and the lack of significant progress in the relevant judicial investigation.

70. The competent governmental authorities should make a point of investigating in depth the serious matter of intimidation, since this practice seriously jeopardizes law and order, and has repercussions on the enjoyment of human rights.

71. A drastic change is required in the conduct of persons responsible for putting military justice into practice. To this end, due attention should be paid to the observations made by the Special Rapporteur in this report and those he has made in previous reports.

72. It is also advisable that the Government and the military should comply with the recommendations that were made in previous reports and have not been put into effect. In addition, the Special Rapporteur would refer to section II of the present report, which reflects concern expressed by Chilean non-governmental groups active in the protection of human rights (see, in particular, paras. 12 and 33 of the present report).

73. The Special Rapporteur recommends to the Government and the Chilean people in general that they should make the greatest possible effort to direct their activities with a view to the establishment of the democratic institutions scheduled for March 1990. From the standpoint of the effective observance of human rights, it is essential that nothing or nobody should prevent the sectors involved in that process, and especially those which have a leading role to play in it, from performing their respective duties in accordance with the highest interests of Chileans, who, as was eloquently demonstrated by the plebiscite of 5 October 1988, have chosen peaceful means in order to establish a democratic and representative political system that will safeguard their fundamental freedoms.

74. The economic improvements in Chile should redound to the benefit of those disadvantaged citizens living in the shanty towns and, in general, be used to improve the living conditions of the working classes.

75. Lastly, the Special Rapporteur recommends to the Government that it should thoroughly review the legislation relating to the indigenous population, and especially that relating to the division of land, so as to avert expulsions and observe proper respect for the culture of that population.
