

CAMPAÑAS EN FAVOR DE LOS DERECHOS HUMANOS
c/o Prof. Israel Halperin, Mathematics, University of Toronto
Toronto, Ont. M5S 1A1, CANADA

ARCHIVO

1986 - 1991; CAMPAÑAS INTERNACIONALES ... Todas las víctimas (Chile)

Estas campañas están organizadas por:

Israel Halperin, Matemáticas, Ph.D. (Princeton, 1936)
John Polanyi, Física, Premio Nóbel
Gerhard Herzberg, Química, Premio Nóbel

26 de febrero de 1992

Señor Patricio Aylwin
Presidente de Chile

Le incluyo copia de nuestro Boletín de Oct.-Nov. de 1989 para recordarle que por muchos años hemos luchado para terminar con la tortura en Chile.

Nuestra última campaña fue apoyada como puede Ud. ver, por 149 Premios Nóbel, Presidentes de importantes Universidades en muchos países, Académicos (entre ellos, más de 250 Miembros de la Royal Society of London, Inglaterra) y miles de otros líderes de todas condiciones.

Ahora leemos con ira en el Informe de Amnistía Internacional: CHILE, Torturas desde marzo de 1990, que desde que Ud. fue elegido Presidente se continúa arrojando a la gente, se les pega, se les aplican sacudidas eléctricas en el ano, los testículos, oídos, sienes, se les droga, se les tortura en la presencia de sus propios hijos, casi se les asfixia con bolsas plásticas en la cabeza y se les acosa sexualmente.

También leemos con disgusto en el Informe de la Comisión Especial de la Asociación de Iglesias de las Relaciones Humanas en Latinoamérica (Canadá) que los que fueron tomados prisioneros durante la dictadura militar están AUN detenidos en cárceles chilenas. El Presidente de la Cámara de Diputados confesó que la situación de estos presos es una mancha en la sociedad chilena.

SEÑOR PRESIDENTE, si comemos uva chilena, tendremos también que continuar saboreando la agonía de esas madres que en vano buscan a sus maridos e hijos cuyos cuerpos fueron torturados por los agentes de Pinochet, y después enterrados en zanjas en lugares desconocidos.

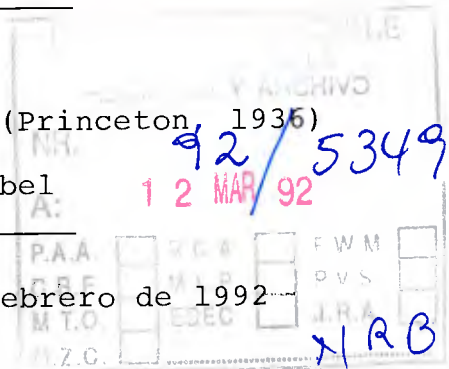
El mundo espera que su gobierno adopte las medidas necesarias para terminar de una vez para siempre con toda tortura en Chile y ponga de inmediato en libertad incondicional a todas esas personas encarceladas por el solo delito de haber criticado a Pinochet.

En nombre de los Directores de las Campañas en favor de los Derechos Humanos

Israel Halperin
Israel Halperin

Copias a los ministros y jefes de la Fuerza Armada, Marina y Fuerza Aérea

Copias a Premios Nóbel, Presidentes de Universidades, Académicos y líderes de toda condición social.



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Present Campaign: 1986- : INTERNATIONAL CAMPAIGN - ALL VICTIMS (CHILE)

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BULLETIN of October - November, 1989 (revised)

This Chile Campaign is directed by Professor Israel Halperin (Ph.D. Princeton, 1936), Fellow and Gold Medalist of the Royal Society of Canada. It will escalate until world-wide opinion, without violence, brings an end to all abduction, torture, and murder by agents and unofficial agents of the Pinochet regime.

This Campaign has the support of: Rt. Rev. John Habgood, Archbishop of York (U.K.), Simone Veil,

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The Royal Netherlands Acad. of Arts and Sciences			Jack Lemmon (Star of the movie "Missing")		
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The Indian National Science Academy			The Academy of Finland; CODOS, Acad. des Sciences (France)		

Lord Alexander Todd, Linus Pauling, and 143 other Nobel Laureates, and thousands and thousands of others, in all walks of life, in many countries. Bulletins are distributed in English, French, Spanish, Portuguese, Japanese and German, three times a year.

From W.J. Ganshof Van Der Meersch, Royal Academy of Belgium, to General Pinochet, Aug. 11, 1989 (translation)

"The Royal Academy of Belgium, informed of continued arbitrary detentions and acts of torture carried out under the direction of the Government of Chile, strongly condemns these violations of fundamental human rights."

Famous or not, you can raise your voice. Send a letter to the President or Prime Minister of your country; urge that all financial or economic aid given to Chile should be conditioned on the elimination of torture; then send a copy of that letter to: Ambassador, Embassy of Chile, Capital City of your country (a more precise address is not necessary).

Adolfo Suarez (Former President of Spain) commenting on the Oct., 1988 plebiscite in Chile:

I believe that the role of international observers influenced very positively the fairness of the plebiscite.

Arthur Miller, after visiting Chile:

Chile is basically a kind of American adaptation of Franco's Spain, where liberty exists, when it does, by the dictator's whim.

The Record, Fall 1988, of Physicians For Human Rights:

With the "NO" vote in Chile winning 53%, General Pinochet's rule in Chile may be drawing to a close. Yet, the repressive apparatus of the state remains in place.

From Amnesty International (CHILE, 1989):

- (i) ... torture continued in the last 3 months of 1988 in spite of the Chilean Government's ratification of the United Nations Convention Against Torture.
 - (ii) The Bishop of Copiapo denounced the torture of several detainees with electricity. Other cases have been reported in Temuco, Talca, Curico and Santiago.
 - (iii) The Chilean Lawyers' Association said: "The efforts of the international community to eradicate such an inhuman practice as torture should be supported without reservation."
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Session Feb. - March, 1989 of Human Rights Commission of United Nations:

The Commission adopted Resolution 1989/62 which expressed concern at the persistence of serious violations of human rights and fundamental freedoms in Chile, as described in the report of the Special Rapporteur, which refers to cases of murder, abduction, disappearance, torture; extended the mandate of the Special Rapporteur for another year.

Actions of foreign governments:

- (i) *Letter from Ambassador Ola Ullsten (Sweden), Feb. 28, 1989:*
The Swedish government reacted very strongly against the coup in Chile and has subsequently never failed to manifest its disapproval of the present regime ... no Swedish ambassador has been appointed since the Swedish ambassador was declared *non grata* in 1973 for having intervened to help persecuted Chilean citizens.
 - (ii) *Letter from Ambassador Count Jean-Francois de Liedekerke (Belgium), April 12, 1989:*
The Government of Belgium voted in favour of Resolution 1989/62 of the Human Rights Commission of the United Nations.
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**Message to every member nation of the Human Rights Commission
of the United Nations:**

The inhuman practice of abduction, torture and oppression in Chile has been condemned by world-wide opinion. The Human Rights Commission has rebuked the Government of Chile but has failed to take effective measures to stop the practice. This failure undermines the credibility of the Commission and weakens the United Nations. The undersigned Nobel Laureates call on the Commission to take action that will be effective in stopping torture and oppression in Chile.

(This message is co-signed by the Nobel Laureates listed on the next page.)

- (i) Among the supporters of this Campaign are also the following 149 Nobel Laureates (all have co-signed the message to the Human Rights Commission of the United Nations printed on the previous page).

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(ii) Among the supporters of this Campaign are also Academicians in many countries. As examples, we list those in Australia, Norway, the Netherlands, and France.

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U.K.: The Royal Society

(names of Nobel Laureates and names of Fellows of the Australian Academy of Science will not be repeated here)

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Field Medalists (for mathematicians, similar to the Nobel Prize):

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Other Mathematicians (to name only a few):

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“The man dies in all who keep silent in the face of tyranny.”

Wole Soyinka, Nobel Laureate

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CHILE

Reports of Torture Since March 1990

SEPTEMBER 1991

SUMMARY

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Under the former military government of General Augusto Pinochet (September 1973 - March 1990), the systematic use of torture and ill-treatment by the police and security forces to extract information from political detainees was one of Amnesty International's principal concerns. Many hundreds of complaints of torture were submitted to the courts but the overwhelming majority of cases were never properly investigated and those responsible were not held accountable for their actions. According to the report published in March 1991 by the National Commission for Truth and Reconciliation (*Comisión Nacional de Verdad y Reconciliación*) - a commission set up by President Patricio Aylwin to investigate past human rights violations - the use of torture under the former military administration to extract information and as a means of punishment was widespread and systematic.

The civilian government has introduced measures aimed at preventing torture from taking place. In spite of the safeguards, however, Amnesty International has continued to receive allegations of torture. They include cases reported after new legislative measures specifically intended to reinforce individual guarantees came into force in February 1991. The *Carabineros* (uniformed police) is the branch of the security forces most frequently cited in the allegations, although cases involving members of *Investigaciones* (Criminal Investigations Police) have also been reported. Formal complaints (*querellas*) of torture have been submitted to the courts on behalf of more than 30 people since March 1990. However, the courts appear to have progressed little in their investigations.

Amnesty International notes the measures adopted by the government to stop the practice of torture. The organization is seriously concerned however that torture and ill-treatment are continuing and believes that one of the fundamental reasons for this is the failure to bring those responsible for torture to justice.

KEYWORDS: TORTURE/ILL-TREATMENT / INCOMMUNICADO DETENTION / POLICE / CONFESSIONS / PRISONERS' TESTIMONIES / WOMEN / SEXUAL ASSAULT / PREGNANCY / CHILDREN / FAMILIES / STUDENTS / POLITICAL VIOLENCE / NON-GOVERNMENTAL ENTITIES / HUMAN RIGHTS ACTIVISTS / DEMONSTRATIONS / INVESTIGATION OF ABUSES / LEGISLATION / GOVERNMENT CHANGE / MEDICAL CONFIRMATION OF TORTURE / MEDICAL TREATMENT OF VICTIMS / PROFESSIONAL ETHICS / RELEASE /

This report summarizes a 29-page document (10,800 words), *Chile: Reports of Torture Since March 1990* (AI Index: AMR 22/03/91), issued by Amnesty International in September 1991. Anyone wanting further details or to take action on this issue should consult the full document.

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amnesty international

CHILE

Reports of Torture Since March 1990



September 1991
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CHILE

Reports of Torture Since March 1990

Introduction

Under the former military government that held power from September 1973 to March 1990, the systematic use of torture and ill-treatment by the police and security forces to extract information from political detainees was one of Amnesty International's principal concerns. Many hundreds of complaints of torture were submitted to the courts but the overwhelming majority of cases were never properly investigated and those responsible were not held accountable for their actions. According to the report published in March 1991 by the National Commission for Truth and Reconciliation (*Comisión Nacional de Verdad y Reconciliación*) - a commission set up by President Aylwin to investigate past human rights violations - the use of torture under the former military administration to extract information and as a means of punishment was widespread and systematic.

The civilian government has introduced measures aimed at preventing torture from taking place. In spite of the safeguards, however, Amnesty International has continued to receive allegations of torture. They include cases reported after new legislative measures, specifically intended to reinforce individual guarantees, came into force in February 1991. The *Carabineros* (uniformed police) is the branch of the security forces most frequently cited in the allegations, although cases involving members of the *Investigaciones* (Criminal Investigations Police) have also been reported. Formal complaints (*querellas*) of torture have been presented before the courts on behalf of more than 30 people since March 1990. Reports suggest, however, that little progress has been made in the majority of the investigations.

In its submission to the United Nations Committee against Torture in November 1990, the Chilean Government described the use of torture during the previous military government and the institutional framework that had allowed torture to occur. While outlining the steps that were being taken to eliminate the practice, the government stated that "it would be unrealistic to hope that such a deep-rooted practice could be completely eliminated ..."¹. It gave an undertaking, however, that any report would be thoroughly investigated. In the supplementary report submitted to the committee in April 1991, the Chilean Government stated that there had been 35 complaints of torture since March 1990. The delegation described measures the government had taken to combat torture,

¹ "sería utópico esperar que una práctica tan arraigada se termine absolutamente de modo inmediato".

and informed the commission about initiatives it said were taken by *Investigaciones* to prevent the practice.

Amnesty International notes the measures adopted by the government to stop the practice of torture. Amnesty International is seriously concerned, however, that torture and ill-treatment are continuing and believes that one of the fundamental reasons for this is the failure to bring those responsible for torture to justice.

Amnesty International has raised its concern with the Chilean Government about continuing reports of torture on several occasions. In December 1990, the organization submitted a series of recommendations to the *Comisión Nacional de Verdad y Reconciliación* at the Commission's own request, which included several points for the prevention of torture.²

Measures taken by Civilian Government

When the elected civilian government took office in March 1990, it stated its firm commitment to eliminate torture in Chile and in the following months, withdrew important reservations to the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment and to the Inter-American Convention to Prevent and Punish Torture, ratified by the previous military government.

In March 1991, the National Commission for Truth and Reconciliation (*Comisión Nacional de Verdad y Reconciliación*) issued a report containing the results of its investigations into serious human rights violations committed between September 1973 and March 1990. The Commission - known as the Rettig Commission (*Comisión Rettig*) after its president, Raúl Rettig - was set up in April 1990 by President Patricio Aylwin to look into cases of "disappearances", illegal executions, and deaths in custody as a result of torture committed by government officials.³ The Commission did not investigate the thousands of allegations of torture. Nevertheless, it concluded that the use of torture had been systematic and extensive.

The Rettig report contained a series of recommendations aimed at preventing the occurrence of human rights violations, including torture. Among these recommendations, the Commission said that detainees held in police custody should have prompt access to relatives, a lawyer and an independent doctor. Any complaint of torture or ill-treatment, the report said, should be immediately and fully investigated and any member of the

² The full text is included in Appendix I.

³ It also investigated politically motivated acts of violence by private individuals.

security forces found responsible for torture should be suspended from duty pending further investigation by the courts. The Commission also recommended that the common practice of making detainees sign a paper declaring that they had not suffered any torture or ill-treatment should be ended and that a list of the individual's rights should be posted up in a visible place in every police station.

Legislative safeguards aimed at protecting detainees from torture have been introduced by the government, and in February 1991 Law 19.047 came into force. This law forms part of the government's attempt to reform security laws that had previously been used to undermine the rights to a fair trial of the majority of prisoners charged with politically-motivated offences, and seeks to reinforce individual guarantees. Among the provisions of the new law are amendments to the Code of Penal Procedure (CPP, *Código de Procedimiento Penal*). These amendments reinforce the right of detainees held in incommunicado detention in police custody to receive visits from a lawyer, stipulating that access to legal counsel should be for up to 30 minutes a day; provide for a medical examination from a doctor independent of the detaining office; place restrictions on the length of incommunicado detention after the detainee has been transferred to prison and emphasize the judge's duty to guarantee the detainee's physical integrity. In addition, a transitory provision of the new law gives political prisoners arrested before March 1990, the majority of whom were tortured following their arrest and forced to make confessions under duress, the right to make new statements before the courts.

One worrying aspect of the new legislation is that the period of incommunicado detention in police custody, where torture most frequently occurred under the military government remains unchanged: a maximum of 15 days.⁴ Under Law 19.047, a clause in the CPP that had been widely interpreted by military prosecutors to prolong the length of incommunicado detention after the detainee's transfer to prison, in some cases for longer than two months, was removed. The maximum period a detainee can be held in incommunicado detention is now 20 days, 15 days in police custody and a further five days after transfer to prison.

⁴ A judge can order that a detainee be held incommunicado in police detention for a period of five days or 10 days under the provisions of the Anti-terrorist Law (*Ley Antiterrorista*). The judge can extend the order for incommunicado detention in police custody for a further five days after the detainee has been brought before him to make a statement (*declaración preparatoria*).

New Cases of Torture

In spite of the measures adopted by the Chilean Government to stop the practice of torture and several announcements by the government that it would not be tolerated, Amnesty International has continued to receive reports of torture. More than 40 cases have been reported to the organization since March 1990.

The allegations have included the use of beatings, the *teléfono*⁵ (the telephone), the *pau de arara*⁶ (parrots perch), the *submarino*⁷ (submarine), suspension for long periods of time from the wrists, and sexual abuse. In a number of cases, detainees said that they had been deprived of sleep and food for extended periods of time. Reports of psychological torture included the prolonged use of blindfolds and death threats against detainees and their families.

Amnesty International has also received reports of the use of electric shocks. Although these reports were isolated and the practice appeared to have declined since the beginning of 1991, the organization recently received information about the use of electric shocks against five people arrested by *Investigaciones* in July in the town of Concepción.

Most of the new victims of torture reported to Amnesty International are alleged members of armed opposition groups - the *Movimiento Juvenil Lautaro* (Lautaro Youth Group) or the *Frente Patriótico Manuel Rodríguez - Autónomo* (Autonomous Manuel Rodríguez Patriotic Front) - which have claimed responsibility for a number of attacks against *Carabineros* (uniformed police) and others.

Among other allegations of ill-treatment were complaints from two members of the *Movimiento contra la Tortura Sebastián Acevedo* (Sebastián Acevedo Movement against Torture) who were arrested by *Carabineros* during a peaceful lightning demonstration in Santiago on 1 October 1991. Amnesty International also received reports of torture in cases of people arrested in connection with criminal investigations.

⁵ repeated blows to the ears

⁶ this involves hanging the victim for prolonged periods of time from a metal or wooden bar. The wrists and ankles are tied together, the knees are bent and the victim is suspended from a bar inserted between the knees and arms - see artist's impression on page 10.

⁷ the detainee is nearly asphyxiated when his/her head is submerged in water or when a plastic bag is placed over his/her head.

Nearly all the cases of torture reported to the organization since the civilian government came to power in March 1990 involved members of the *Carabineros*; the other cases implicated members of *Investigaciones*. The Third Police Station (*Tercera Comisaría*) in Santiago was frequently cited in torture complaints presented to the courts. This is where the *Dirección de Inteligencia de la Policía de Carabineros*, DIPOLCAR, the security branch of the *Carabineros* set up in May 1990 to combat attacks by armed opposition groups, is said to be operating.

Cases of ill-treatment by members of the *Carabineros* were also reported in the context of peaceful street demonstrations by members of human rights groups and relatives of victims of human rights violations. In one incident, a member of the *Agrupación de Familiares de Ejecutados Políticos* (Association of Relatives of Victims of Extrajudicial Execution) was detained during a demonstration in November 1990 and severely beaten on various parts of her body, resulting in severe injury to the pubic area.

The cases of torture reported after Law 19.047 entered into force in February 1991, reveal that the safeguards introduced by the government have failed to stop such practices. Human rights lawyers have reported frequent breaches of the provisions guaranteeing a detainee's right to up to thirty minutes counsel a day,⁸ and in some cases lawyers experienced delays in gaining access to detainees held in police custody. In one case reported to Amnesty International, a lawyer trying to gain access on Friday 31 May 1991 to three detainees held in the Third Police Station in Santiago was informed by a police officer there that since the judge had ordered the *incomunicado* detention, she was not permitted to see them. When the lawyer spoke to the judge on the following Monday, he informed her that the detainees had not yet been brought before him and that article 293, recently modified under Law 19.047, was applicable (see note below). The lawyer was then able to see the detainees that day and again on 5 June. The detainees alleged that they had been forced to remain on their feet for prolonged periods of time following their arrest on 29 May 1991 and had been deprived of food until the evening of 3 June.

According to another amendment to the Code of Penal Procedure, when the judge in charge of the investigations orders an extension of the period a detainee is to be held in police custody, he is also obliged to call for an independent medical examination to be performed the same day. While this measure appears to have been carried out in

⁸ Under Law 19.047, article 293 of the Code of Penal Procedure now states that, "the officer in charge of the police station or prison in which the detainee is being held before being placed at the disposition of the courts, cannot refuse the detainee the right to talk with his/her lawyer in the presence of the officer, for up to 30 minutes each day, to discuss exclusively the treatment received, the conditions of his/her detention and his/her rights".

most cases, reports indicate that in some cases there were delays and that examinations were not always thorough enough to fully document any allegation of torture. The judge's duty to protect detainees in police custody has been reinforced in the CPP and failure to do so is punishable by law.

In a number of legal complaints of torture (*querellas*) presented to the courts, detainees stated that no arrest warrant or identification was shown by the arresting officers and alleged that they were forced, under threats of further torture, to ratify confessions drawn up by the security forces which they were not allowed to read. Other irregularities have included the repeated extension of incommunicado detention orders by military prosecutors in charge of some of the investigations beyond the maximum 20-day period.

Since March 1990, *querellas* have been submitted to the courts on behalf of more than 30 people. It appears, however, that little progress has been made in the judicial investigations into the majority of these complaints. Other reported cases have not been presented to the courts, as complainants allegedly fear retaliation or believe that the complaint will not be investigated properly. Instead they have chosen to make an administrative complaint. Reports indicate that some of these cases have been effectively dealt with by *Investigaciones*.

Allegations of torture have been backed up by the Human Rights Commission of the Chamber of Deputies (*Comisión de Derechos Humanos de la Cámara de Diputados*) which in January 1991 publicly denounced the practice of torture by members of the *Carabineros* after investigating five complaints of torture presented to the legislative commission by the independent human rights organization, the Chilean Commission for Human Rights (*Comisión Chilena de Derechos Humanos*). The cases alleged torture by members of the DIPOLCAR in the Third Police Station. The allegations included electric shocks in three of the cases and rape in another case.⁹ *Carabineros* rejected the criticisms, stating that "all of the detainees mentioned were examined by medical professionals, both when they arrived and when they left the police stations without any visible or evident sign of injuries consistent with torture and [they] were placed at the disposition of the courts at the appropriate moment".¹⁰

⁹ See cases of Luis Peña Saavedra, Ester Alfaro González, Sergio Antonio Vásquez Barrientos, Abraham Enrique Larrea Zambrano and Miguel Montecino Montecino for further details.

¹⁰ "Todos los detenidos mencionados fueron examinados por profesionales médicos, tanto al ingresar como al hacer abandono de los recintos de Carabineros, sin haber acusado ni evidenciado lesiones atribuibles a la aplicación de apremios ilegítimos, y oportunamente puestos a disposición de los magistrados".

Jaime Celis was taken to the El Manzano prison and on 27 July he was transferred to Santiago where he was examined by a doctor in the *Penitenciaría* (Santiago Penitentiary). According to his testimony he was kicked, punched and threatened by the prison guards. He remained in incommunicado detention until 14 August. He has been charged in connection with various armed offences.

In their testimonies, Jaime Pinto, 32, Julio Prado, 40, Marcela Mardones, and Patricio Gallardo, 27, all said that they were tortured with electric shocks. They were also subjected to treatment similar to that described in the testimony of Jaime Celis. In his testimony, Julio Prado, stated that he was arrested as he was making his way to the house of Jaime Celis and Marisa Rojas Bórquez. He was reportedly taken to the house - which was allegedly occupied by the police for several days - and tortured with electric shocks. According to reports, one of the children of Jaime Celis and Marisa Rojas witnessed Julio Prado being tortured.

At the time of writing, Amnesty International has not been informed whether torture complaints have been submitted to the courts for judicial investigation. However, the Human Rights Commission of the Chamber of Deputies who received information about these cases from the Chilean Commission for Human Rights and the Vicariate in Concepción is said to have asked the head of *Investigaciones*, General Horacio Toro, to give them more details. He is reported to have sent quite a detailed account, but declined to appear in person.

Ivan Andrés CORDOVA CORDOVA, 28, was arrested in Santiago on 27 May 1991 by two men in civilian clothes who did not identify themselves. According to his testimony, he was taken to a police station in San Luis de Macul where he was beaten and kicked. From there he was transferred to the 18th police station where he was subjected to the *pau de arara*. He was reportedly nearly asphyxiated with plastic bags that were put over his head. He was beaten and threatened that he would be given electric shocks. He was transferred to the *Penitenciaría* (Penitentiary) in Santiago but was released unconditionally on 31 May 1991. Amnesty International has not been informed whether a formal complaint of torture has been submitted to the courts.

Galia GIMPEL MARTINEZ, a 19-year-old student, was arrested on 20 May 1991 by *Carabineros* and taken to the 18th police station in Santiago, where according to her testimony, she was beaten and sexually molested. She was then taken to the 38th police station where she was beaten and made to remain standing without sleep for several days. At one point, she was reportedly made to kneel down and her head was knocked against the corner of a table, leaving her bleeding. Threats were reportedly made to her family, including her young daughter. She was charged under the Anti-terrorist Law and was transferred to the San Miguel Prison. A formal complaint of torture was

presented to the 19th Criminal Court on 7 August 1991 on her behalf. At the time of writing, Amnesty International has received no information about any developments in the investigations into this complaint.



Artist's impression of the *pau de arara* (parrot perch). c. Morgen Norgaard.

Lucio Eduardo MALDONADO GARCIA, 23, was arrested by *Carabineros* on 15 May 1991 as he was travelling in a truck. He was taken to the police station in the poor district (*población*) of La Victoria in Santiago. During the journey he says he was beaten. According to his testimony, at the police station he was subjected to beatings and the *teléfono*. He was taken to another police station where he was subjected to further beatings, threatened with electric shock treatment and suspended so that only the tips of his toes touched the ground. At one point, he was reportedly taken to a hospital as he required stitches in his head. He was then transferred to the *Penitenciaría*. Amnesty International has not been informed whether a formal complaint of torture has been submitted to the courts.

Angel Patricio MUNOZ FAUNDEZ, 27, was detained by *Carabineros* on 29 April 1991 in the poor district of Cerro Navia, Santiago. He was taken first to the San Pablo police station where he was beaten. The following day he was taken to the Third Police Station in Santiago where while being questioned about his political activities, he was beaten, subjected to the *teléfono* and, according to his testimony, deprived of food for several days. He remained in the Third police station until 9 May and was then transferred to the Santiago Penitentiary where the incommunicado detention order was lifted the following day. He was released for lack of evidence on 14 May. Amnesty International has not been informed whether any complaint of torture has been submitted to the courts.

María Teresa GONZALEZ RODRIGUEZ, 26, was detained in Santiago by *Carabineros* on 29 April 1991. While being transferred to a police station, she was beaten and a gun was placed to her head and the trigger was pulled in a mock execution. According to her testimony, once she arrived at the police station of Teniente Cruz, she was asked questions about her activities and was beaten, sexually molested and threatened with rape. She was then transferred to the 38th police station where she was subjected to beatings, deprived of food for several days and obliged to remain standing for long periods of time. She was reportedly threatened with rape and threats were made against her family. According to her testimony, she remained incommunicado in police custody for over a week before being transferred to the San Miguel Prison where she was held incommunicado for a further five days. A formal complaint of torture was submitted to the 26th Criminal Court on 7 August 1991. At the time of writing, Amnesty International has received no information about any developments in the investigations into this complaint.

Patricio Fernando ORTIZ MONTENEGRO was arrested in Santiago by *Carabineros* on 28 February 1991. According to reports, at the time of his arrest an exchange of fire with the security forces took place. In the legal complaint presented on his behalf, he says he was beaten and kicked at the time of his arrest. Once in the police van, he was

reportedly subjected to a mock execution and beaten until he lost consciousness. He was taken to the 10th Police Station where the beatings reportedly continued. As a result he needed emergency medical attention at the José Joaquín Aguirre Hospital. He was subsequently transferred to Central Hospital (*Posta Central*) and from there to the infirmary in the Penitentiary. He remains in prison charged under the Arms Control Law and with attacking a policeman. His brother, **Pedro Alberto ORTIZ MONTENEGRO**, was also arrested by *Carabineros* on 28 February and taken to the 10th police station. At the time of his arrest, he was reportedly beaten and kicked. Once at the police station he was reportedly forced to remain standing for 24 hours and deprived of food and liquid. He is currently in the Santiago Penitentiary charged under the Arms Control Law. Following their arrest, they were reportedly denied access to a lawyer for more than ten days. Formal complaints of torture have been presented on behalf of both brothers. At the time of writing, Amnesty International has received no information about any developments in the investigations into this complaint.

Complaints were also presented on behalf of two other brothers, **Claudio** and **Camilo CAVIERES MONTANARES** who were arrested on the same day as the Ortiz brothers. They were held in the Third Police Station until 5 March. During the period they were held there, they said they were forced to remain on their feet for nearly 76 hours and were deprived of food for three days. They were released unconditionally towards the beginning of March.

Miguel Armando MONTECINO MONTECINO, one of more than 40 political prisoners who escaped from the *Cárcel Pública* (Public Prison) in Santiago in January 1990, was rearrested on 19 December 1990 by *Carabineros* and taken to the Third Police Station in Santiago. In his testimony he says that in the police car, a gun was put into his mouth and he was threatened with death. At the police station, he was subjected to the *teléfono* and beaten. The police agents reportedly covered his mouth and nose until he fainted; a system of torture known as the "dry submarine". On the second or third day, he says that he was examined by a doctor who advised the police agents not to continue beating him in the stomach. The *incomunicado* detention order was lifted on 28 December. Before being presented to the military prosecutor, he was reportedly made to sign a statement he was not allowed to read. He is being held in the *Penitenciaría*. Amnesty International has not been informed whether a complaint about his treatment has been presented to the courts.

Yuri Aliro VARGAS ARAYA, who escaped from the *Cárcel Pública* in January 1990, was rearrested from his home on 19 December 1990 by armed men in civilian clothes. A gun was put in his mouth and he was beaten and kicked. His wife was also beaten. He was then transferred to the Third Police Station in Santiago. During the journey, he was subjected to the "telephone" and threatened that he would "disappear". According

to his testimony, he was made to stand up and was deprived of sleep, water and food for several days. He was beaten and he too was subjected to the "dry submarine". He was later transferred to the *Penitenciaría*. A formal complaint of torture was submitted to the Fifth Criminal Court of Santiago on 28 January 1991. At the time of writing, Amnesty International has received no information about any developments in the investigations into this complaint.

Wilson ROJAS MERCADO and **RODRIGO SAA GERBIER** were arrested by *Carabineros* on 6 December 1990 and taken to the Third Police Station. At the police station they were beaten. According to the legal complaint both made regarding their treatment, a gun was placed against Wilson Rojas' head and a mock execution was carried out. Both were reportedly subjected to the "dry submarine". (In this instance, plastic bags were put over their heads). They were also given the *teléfono*. They were deprived of food and water for several days. They were subsequently transferred to the Penitentiary. Their torture complaint was presented to the Fifth Criminal Court on 24 January 1991. At the time of writing, no information about any developments in the investigations into this complaint has been received by Amnesty International.

Roberto Amado PARDO RAMIREZ was arrested at his home in Santiago on 2 October 1990 by plain-clothes policemen and taken to the 13th police station of the *Carabineros*. According to reports, he was subjected to the *pau de arara*, repeated beatings on the soles of his feet and other parts of his body, and had jets of water pumped into his nostrils. He was reportedly made to walk on some bottles in spite of the severe beatings he had suffered to the soles of his feet. Later on that day he was transferred to the *Cuartel Central de Investigaciones* (headquarters of the Criminal Investigations Police) in Santiago where he was released without charge the same day. A torture complaint was presented to the Ninth Criminal Court on 8 October 1990. At the time of writing, Amnesty International has received no information about any developments in the investigations into this complaint.

Abraham LARREA ZAMORANO, 31, and his partner **Catalina AVILA LAZO** were arrested by members of the *Carabineros*' special operations groups, GOPE, on 30 September 1990. According to his testimony, Abraham Larrea was taken to the Third Police Station where while questioned about his activities, he was tortured with electricity on his legs, testicles, arms, nipples, hands and stomach. He received the *teléfono*, was made to remain standing and was deprived of food, water and sleep for several days. He was not allowed to go to the toilet. According to Abraham Larrea's testimony, he was also forced to listen to a tape with the sound of a woman being tortured and of a baby crying for several hours. He was allegedly told that the sounds were those of his wife and child. According to his testimony he was held

Pauline JENKIN SOLERVICENS, 29, and **Félix MADARIAGA LEIVA**, 20 were arrested in Santiago by *Carabineros* on 13 September 1990. Pauline Jenkin was taken to an unknown destination close to Santiago where she was reportedly beaten and deprived of food and drink. A few days later, she was transferred to the Santo Domingo Prison in Santiago. She was charged under the Arms Control Law. According to reports, she was held for a total of 26 days in incommunicado detention. Amnesty International has not been informed whether a complaint of torture has been submitted to the courts.

According to the complaint of torture presented to the 19th Criminal Court on 1 March 1991 on behalf of Félix Madariaga Leiva, after his arrest, he was taken to the Third Police Station where he was beaten, subjected to the *teléfono* and deprived of food. He was subjected to mock execution. According to the torture complaint, he was examined by an individual carrying out medical duties, after which the torture continued. He is currently in the Santiago Penitentiary accused of various offences committed before and after 11 March 1990.

Leonardo Andrés VIRAN LOPEZ was arrested in Santiago on 7 September 1990 by members of *Investigaciones*. During the journey he was beaten on several parts of his body. According to his testimony he was taken to the *Investigaciones* police station in Peñalolen where he was subjected to the *teléfono*. He was later transferred to the headquarters of *Investigaciones* where he was threatened but not ill-treated. He is currently held in the Santiago Penitentiary. A torture complaint was presented to the Sixth Criminal Court of Santiago on 3 October 1990. Amnesty International has not heard of any developments in the judicial investigations into the complaint.

Marta MONTIEL OYARZUN, 30, was arrested at her home in Santiago on 25 August 1990 by *Carabineros* police who reportedly showed no arrest warrant. According to her testimony, at the time of her arrest, she was reportedly kicked and hit with rifle butts in various parts of her body, including the lower abdomen, until she lost consciousness. In addition a pillow was held over her face several times. Her 10-year-old son was reportedly made to witness her ill-treatment and was himself beaten and threatened in an attempt to obtain information about his mother's activities. She was reportedly subjected to further beatings while in police custody. A forensic doctor from the *Instituto Médico Legal* (Institute of Forensic Medicine) examined her before her transfer to prison and noted injuries consistent with torture and ill-treatment. He recommended immediate treatment but his recommendation was apparently disregarded by the military prosecutor in charge of the investigations who did not take any action for 10 days. A member of the Human Rights Commission, Andrés Aylwin, who visited Marta Montiel

in prison stated "I was able to see that ... two weeks after her detention, she was still in a very bad state and showed clear signs of having been tortured."¹³

Marta Montiel Oyarzún was charged under the Anti-terrorist Law but was released unconditionally in November 1990. A *querrela* was presented to the 18th Criminal Court. At the time of writing, no information had been received by Amnesty International about any developments in the judicial investigations into the complaint presented on behalf of Marta Montiel.

Efraín del Carmen ROJAS ACEVEDO was arrested on 17 August 1990 by *Carabineros* outside the police station in the poor district (*población*) of Santa Adriana in Santiago. According to his testimony, he was beaten with blunt objects on different parts of his body. As a result he had to receive emergency medical attention at the out-patients' department of the Barros Luco Hospital, where he was taken by the *Carabineros* on the day of his arrest. He was then taken back to the police station, and from there, was presented before the *Segunda Fiscalía Militar* (Second Military Prosecutor's Office) on 20 August, where he was accused of attacking *Carabineros* officers. On 24 August, the court ordered his release for lack of evidence, and he was then able to see a doctor and receive a medical examination. The doctor's report noted that his injuries were consistent with torture. A torture complaint was submitted to the Fifth Criminal Court of Santiago on 6 September 1990. No information has been received by Amnesty International about any developments in the investigations into this complaint.

Alvaro RODRIGUEZ ESCOBAR was arrested in Santiago on 9 August 1990 by *Carabineros* and taken to the 18th Police Station. He was transferred the same day to the Third Police Station in Santiago. At one point during the journey, he was made to get out of the vehicle and was told he was going to be killed. According to the *querrela* presented to the Fifth Criminal Court in Santiago on 9 October 1990, he was given electric shocks on his genitals, chest and feet and his head was submerged in water until he could no longer breathe (the *submarino*). He was reportedly also subjected to the *pau de arara*, was forced to ingest excrement, was beaten with blunt instruments, and deprived of sleep, food and drink for long periods. According to his testimony, while under torture, particularly while having electrical currents applied, he was examined by a woman performing medical duties, following which the torture continued. Before his transfer to the Santiago Penitentiary on 15 August, he was reportedly obliged under threats to sign a statement saying that no illegal duress had been used against him. He was held incommunicado in prison for a further seven days. He has reportedly been

¹³ "Pude comprobar que ... dos semanas después de la detención, todavía estaba en muy malas condiciones y presentaba síntomas evidentes de haber sido sometida a apremios ilegítimos".

charged under the Arms Control Law and for infringing Article 433 of the Penal Code (*Código Penal*).

Rodrigo MORALES SALAS, 32, and his sister **Marilyn MORALES SALAS**, were arrested by *Carabineros* on 30 July 1990 outside their home in Santiago and taken to Los Dominicos Police Station. According to the *querrela* presented to the Fifth Criminal Court in Santiago on 10 October 1990, Rodrigo Morales reportedly subjected to beatings including the *teléfono*, and was threatened that his sister, who was allegedly stripped in front of him, would be tortured. Later that day, he was transferred to the Third Police Station in Santiago where he was beaten on different parts of his body and was reportedly prevented from sleeping for 72 hours. He was reportedly held incommunicado for a total of 26 days. He is in the *Penitenciaría* charged under the Anti-terrorist and Arms Control Laws. Marilyn del Carmen SALAS was released without charge the same day.

Gladys CARVAJAL FUENTES, 28, was arrested on 13 June 1990 in Graneros by members of *Carabineros* and its special operations group, *Grupo de Operaciones Especiales*, GOPE, and taken to the police station in the same town. There she was reportedly beaten on different parts of the body, despite the fact that she was pregnant. She was transferred to Santo Domingo Prison in Santiago, charged under the Arms Control Law. Amnesty International has not received reports of any legal action initiated to investigate her allegations.

Jorge Antonio ESPINOLA ROBLES, 24, was arrested with **Fernando Enrique MORENO VEGA** on 18 May 1990 in Santiago. At the time of the arrest, an exchange of fire with the security forces allegedly took place, during which Jorge Espínola Robles was slightly wounded. He was taken to the 12th police station in Santiago. He was allegedly beaten several times en route to the police station. At 4pm he was taken from the station to the Barros Luco Hospital, where he received medical attention. According to his testimony, at one point eight men in civilian dress entered the hospital observation room and beat him; he said they used the buckle of his belt to scrape his wounds. He was discharged from hospital at 7.10pm that day and taken to the Third Police Station in Santiago, where he was held incommunicado for six days. During this time he was allegedly interrogated and subjected to the *teléfono*, the *pau de arara* and beatings on various parts of his body. He was also reportedly forced to remain standing for long periods and deprived of food and drink.

Before his transfer to the Santiago Penitentiary (*Penitenciaría*), Jorge Antonio Espínola Robles was allegedly forced to state in front of a video camera that he had not been ill-treated. He was accused of participating in the killing of a former member of the security forces in May 1990 and was charged under the Arms Control Law and the

Anti-terrorist Law. A formal complaint (*querrela*) of torture was submitted to the First Criminal Court of San Miguel on 11 June 1990. Jorge Espínola escaped from prison in January 1991.

Fernando Enrique MORENO VEGA, 28, was arrested with **Jorge Antonio ESPINOLA ROBLES** on 18 May 1990 in Santiago by armed men in civilian clothes. He was taken to the 12th Police Station and then to the Third Police Station. In the official complaint of torture later presented on his behalf, he says that while in police custody, he was beaten on several parts of his body and subjected to the *teléfono*. He says that at one point, his wrists were bound with tape, his handcuffs replaced and he was made to stand on a chair with his arms stretched above him. The chain connecting his handcuffs was placed over a tubular bar projecting from the wall and the chair was then removed leaving him hanging from his wrists. He was left in this position for about 10 minutes. He was also deprived of food, drink and sleep. Before his transfer to the Santiago Penitentiary, he was reportedly forced to declare in front of video cameras that no illegal duress had been used against him. He was charged under the Arms Control Law. A complaint about his torture and ill-treatment was submitted to the First Criminal Court of San Miguel on 11 June 1990. At the time of writing, Amnesty International has received no information about any developments in the investigations into this case.

Miguel Angel CHACON LEYTON, 29, was arrested in Santiago by *Carabineros* on 29 March 1990 shortly after a bomb had exploded in the vicinity. He was taken to the local police station in Renca where the police officers reportedly ordered him to sign a statement incriminating himself in various offences including the death of a *carabiniro*. According to his testimony, when he refused to sign the statement, a dog was brought into his cell and he was bitten on the arms, neck and genitals. A gun was put into his mouth and the trigger pulled several times in a mock execution. He was beaten and kicked and threats were made against his wife and daughter. He was later transferred to the 18th police station and then to the *Cárcel Pública* in Santiago. He was released on bail on 1 June 1991. Amnesty International has not been informed whether a complaint of torture has been submitted to the courts.

Juan VASQUEZ OSSA, 33, was arrested in Santiago by *Carabineros* on 29 March 1990 shortly after a bomb had exploded in the vicinity. At the time of arrest, he was beaten in the testicles and stomach. A gun was placed against his neck in a mock execution. He was taken to the local police station where he was allegedly beaten and subjected to the *teléfono*. He was reportedly deprived of food and water for 36 hours. Threats were made that his family were going to be tortured. He was transferred to the *Cárcel Pública* and was released on bail on 1 June 1991. Amnesty International has not been informed whether a complaint of torture has been submitted to the courts.

Vlami SALAMANCA MORALES was arrested on 15 March 1990 in Santiago by *Carabineros* and taken to the Third Police Station in Santiago. According to the torture complaint presented to the 5th Criminal Court on 11 July 1990, he was beaten on different parts of his body - including blows to his ears - and was suspended from his wrists for a prolonged period. He was subsequently transferred to Santiago Penitentiary, charged under the Anti-terrorist Law.

Lino PALMA INSULZA was arrested at his home in the district of Conchalí, Santiago, in the early hours of 11 March 1990 by armed men who did not identify themselves or show any arrest warrant and was taken to the 18th Police Station in Santiago. According to reports, he was beaten at the time of his arrest. In the 18th Police Station he was allegedly subjected to the *teléfono*, beaten on various parts of his body and threatened with electric shocks. He was transferred to the Third Police Station in Santiago on 12 March where the beatings continued. He was charged under the Arms Control Law and Anti-terrorist Law and was transferred to Santiago Penitentiary on 16 March. A *querrela* was submitted to the 19th Criminal Court in Santiago on 17 April 1990.

Pedro Felipe RAMIREZ CHAPARRO was arrested at about 10pm on 10 March 1990 in Santiago by *Carabineros* and taken to the 18th Police Station, where he was held incommunicado until 12 March. During this time he was reportedly beaten, subjected to the *teléfono* and threatened with a dog. He was taken on the night of 10 March to the out-patient department of Salvador Hospital, where he received treatment for a deep cut he said he had received from having his head bashed against the ground at the time of his arrest. He was then returned immediately to the police station. On 12 March he was transferred to the Third Police Station in Santiago, where reports indicate that he was subjected to further beatings. According to his testimony, he also suffered prolonged food and sleep deprivation. He alleged that he was forced to sign statements which he had not been permitted to read. On 16 March he was transferred to the Santiago Penitentiary charged under the Anti-terrorist and Arms Control Laws. A torture complaint was presented on his behalf to the 13th Criminal Court of Santiago on 17 April 1990. Amnesty International has received no further news about any developments in the investigations into the complaint presented on his behalf.

Juan Carlos CONCHA PIZARRO was arrested with **Erwin RIVERA CASTILLO** by *Carabineros* on 8 March 1990 at Puesto, on the border with Argentina in southern central Chile in connection with an attack on a policeman in 1989. On 12 March, they were transferred to the Third Police Station in Santiago where they were reportedly held incommunicado for 11 days. According to their official complaint, they were subjected to beatings, the *teléfono*, suspension for long periods from their wrists and prolonged sleep and food deprivation. They were reportedly forced to sign statements saying they had participated in an attack on a police officer on 14 December 1989. On 19 March

they were taken before the military prosecutor and transferred to the Santiago Penitentiary. They were charged under the Anti-terrorist Law. A *querella* was presented on their behalf to the Fifth Criminal Court in Santiago on 17 April 1990. Amnesty International has received no information about any developments in the judicial investigations into this complaint.

APPENDIX I

In December 1990, at the invitation of the Chilean National Commission for Truth and Reconciliation (*Comisión Nacional de Verdad y Reconciliación*), Amnesty International submitted a series of recommendations for the prevention of human rights violations. The following is the complete text of the document prepared by Amnesty International.

Recommendations by Amnesty International concerning the prevention of human rights violations in Chile:

The following recommendations are based on the experience Amnesty International has gained in documenting and acting on human rights violations in Chile. They are offered as a contribution for the building of a system of safeguards against human rights violations in the future.

1. Past Abuses

1.1 Thorough and impartial investigations should be held into all cases of torture, "disappearances" and extrajudicial executions, where the responsibility of the state appears to have been involved through the action, tolerance or acquiescence of its agents. Appropriate resources should be made available to ensure that these investigations are as effective as possible. The full truth of these cases should be made known. Those responsible for such human rights abuses should be brought to justice.

1.2 Decree Law 2191, which has prevented and continues to impede judicial investigations into abuses committed before 10 March 1978, should be repealed. The impunity which this law affords to those responsible for the most serious of human rights violations can encourage the recurrence of such violations. The United Nations Working Group on Enforced or Involuntary Disappearances concluded in its 1990 report that "perhaps the single most important factor contributing to the phenomenon of disappearances may be that of impunity" and that "perpetrators of human rights violations, whether civilian or military, will become all the more brazen when they are not held to account before a court of law".

1.3 The state should provide appropriate reparation and compensation to the victims of human rights violations. For example, free specialized medical treatment should be provided for all those affected by serious human rights violations. Such reparatory measures would serve as a clear message from the state that it assumes responsibility

for the consequences of past human rights violations and has made a commitment to prevent further abuses.

1.4 The civilian courts should oversee a thorough and impartial review of all judicial proceedings, both in military and civilian courts, initiated during the former government against those detained for political reasons, including those imprisoned after conviction of politically motivated crimes. Amnesty International considers that such proceedings often lacked fundamental internationally recognized guarantees, including the right not to be compelled to testify against oneself and the right to be judged by an independent and impartial tribunal. The re-examination of these cases should be aimed at determining whether those prisoners who did not receive a fair trial according to international standards should be released or should have their case re-heard under fair procedures.

1.5 A national centre responsible for investigations into "disappearances" should be established, with full independence and investigative authority. This office should be adequately staffed, and should have the services of professionals who specialize in the search, recovery and identification of human remains and in identifying their cause and manner of death. The information collected by this office should be made accessible to relatives of the victims.

1.6 A thorough and impartial investigation should be initiated into the involvement of health professionals in the torture and ill-treatment of detainees and prisoners, including their complicity in such abuses. The *Colegio Médico de Chile* should be invited to sit on such an inquiry. Disciplinary proceedings should be instituted against any medical personnel found to have breached the United Nations Principles of Medical Ethics. Any criminal act found to have been committed should be referred to the courts.

2. Fair Trial

2.1 There should be a comprehensive review of the judiciary, aimed at introducing reforms to bring about a genuinely independent and impartial judiciary which will never again condone human rights abuses committed by agents of the state.

International standards pertaining to the judiciary, including those set forth in the United Nations Basic Principles on the Independence of Judiciary, should be fully implemented in Chilean law and practice. The Military Justice Code should be revised without delay, so as to limit its jurisdiction to offences of a military nature.

2.2 All detainees should have prompt and regular access to legal counsel of their choice, and adequate time and facilities to prepare their case.

2.3 The internationally-recognized rights which are necessary for a fair trial, including those set forth in the International Covenant on Civil and Political Rights and the American Convention on Human Rights, should be fully respected in all cases.

3. Domestic implementation of international standards

3.1 Steps should be taken to bring domestic law and practice into full conformity with international human rights instruments including human rights conventions ratified by Chile, as well as the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the United Nations Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary or Summary Executions.

4. Steps to prevent torture and ill-treatment, "disappearances" and extrajudicial executions

4.1 There should be a prompt, thorough and impartial investigation of any report of suspected torture, ill-treatment, "disappearance" or extrajudicial execution. The investigative authority should have the power to obtain all information necessary to the inquiry, should have adequate financial and technical resources for effective investigation, and should have the authority to oblige officials allegedly involved in any such abuses to appear and testify.

4.2 Any law enforcement agent found responsible for committing such acts, or for ordering, encouraging or condoning them, should be brought to justice. Any law enforcement agent charged with such offences should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees and, if found guilty, should be dismissed.

4.3 All victims of these abuses should receive appropriate medical treatment, compensation and reparation as required by international standards.

4.4 Any form of detention or imprisonment and all measures affecting the human rights of a detainee or prisoner should be subject to the effective control of a judicial authority.

4.5 All detainees should have access to family members and legal counsel promptly after arrest and regularly throughout their detention or imprisonment.

4.6 All arrests should be carried out under strict judicial control and only by authorized personnel. Law enforcement officials should adequately identify themselves and present arrest warrants at the time of arrest. All persons should be informed, at the time of arrest, of the specific reasons for their arrest, and of their rights and how to exercise them.

4.7 Families should be informed immediately of any arrest and should be kept informed of the whereabouts of the detainee or prisoner at all times.

4.8 All detainees should be brought before a judge promptly after arrest, so that the lawfulness of their detention may be examined and their physical integrity ensured.

4.9 Detainees and prisoners should be held only in official, known detention centres, a list of which should be widely publicized.

4.10 The date, time and duration of each period of interrogation should be clearly recorded, as well as the names of all those present during interrogation. These records should be open to judicial scrutiny and to inspection by lawyers and relatives of prisoners.

4.11 No confession or other statement should be admissible as evidence in court if it was obtained under torture, ill-treatment or duress, except as evidence against the perpetrator of such mistreatment. As many defendants were convicted in the past on the basis of coerced confessions, consideration should be given to prohibiting the conviction of a defendant solely on the basis of an uncorroborated confession in the absence of a lawyer.

4.12 There should be a clear and complete separation between the authorities responsible for detention and the authorities responsible for interrogation of detainees. Detaining and interrogating authorities should be required to apply international human rights standards, including those contained in the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and should be held accountable for any contravention of such standards.

4.13 All detention centres should be visited and inspected regularly by representatives of an independent body. These inspectors should conduct their visits without advance warning. Any detained or imprisoned person should have the right to communicate

freely and in full confidentiality with the inspectors. The inspectors should have unrestricted access to all relevant records and should be authorized to receive and deal with prisoners' complaints in the course of frequent, unannounced visits. The inspection body should be responsible for preparing detailed reports on their findings of each inspection visit, and should ensure that appropriate action is taken to remedy all shortcomings relating to the treatment of detainees and prisoners. The inspection body should also be charged specifically with the task of putting forward recommendations for improving prison conditions in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

4.14 Medical Safeguards:

Medical examinations should be provided to detainees and prisoners on a regular basis and should be performed by independent professionals under the supervision of a professional association such as the Colegio Médico de Chile, in accordance with the following principles:

- a. A medical examination should be carried out on each detainee promptly after arrest and before interrogation.
- b. Detainees should be medically examined every 24 hours during the period of interrogation; on a frequent and regular basis throughout detention and imprisonment; and immediately before transfer or release.
- c. These examinations should be performed personally by the authorized doctor, who should explain to the detainee the importance of having a full and contemporary record of his or her condition.
- d. Detainees should be informed of the importance of these medical examinations in the written notice of their rights.
- e. Examinations should be carried out in private, exclusively by medical personnel.
- f. Each detainee should have access to a medical officer at any time on the basis of a reasonable request.
- g. Detailed medical records on detainees should be kept including: weight, state of nutrition, visible marks on the body, psychological state and complaints about health or treatment received.

h. These records should be confidential but should be communicated, at the request of the detainee, to a legal advisor, his or her family, or the authorities charged with investigating the treatment of prisoners.

i. Each detainee should be entitled to private examinations by his or her own doctor at the request of the detainee or the detainee's lawyer or family.

The medical examination of persons who are alleged to have been victims of human rights abuses should be carried out by the official forensic experts in the presence of a health professional designated by the family, the legal representative of the deceased or a professional designated by an independent medical association. Forensic doctors should be provided with the training and resources necessary for the diagnosis of all forms of torture and ill-treatment.

4.15 All public officials who have reason to believe that a human rights violation has been committed or is about to be committed should be required to report the matter to the appropriate authority vested with remedial power. Public officials should be protected from suffering any administrative or other penalties for having made such a report.

4.16 Whenever the death or "disappearance" of a detainee or prisoner occurs, there should be a prompt and impartial judicial inquiry, either on the judicial authority's own motion or at the instance of a family member of the deceased or any person who has knowledge of the case. When circumstances so warrant, a similar inquiry shall be held whenever the death or "disappearance" occurs shortly after the termination of detention or imprisonment.

4.17 In all cases of possible extrajudicial executions, including cases where complaints by relatives or other reliable reports suggest such a possibility, there should be a prompt, thorough and impartial investigation. The purpose of the investigation should be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about the death. The investigation should include an adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses. The deceased's doctors, dentists, legal adviser and family should have access to the results of the autopsy.

4.18 There should be a thorough review of law and practice aimed at carrying out necessary reform to ensure compliance with the requirements of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (including the requirements relating to universal jurisdiction over alleged

torturers), the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the United Nations Code of Conduct for Law Enforcement Officials, and the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

5. Human Rights Awareness

5.1 Human rights education should be promoted at every stage of the education system. There should be a broad program aimed at promoting human rights awareness among all sectors of society. The government should ensure that all law-enforcement agents and members of the armed forces receive adequate training on human rights standards, both domestic and international, and the means for their protection, in times of peace and of armed conflict. Special emphasis should be given to training members of the security services in the principles set forth in the United Nations Code of Conduct for Law Enforcement Officials. The authorities should adopt and publish the Code of Conduct for the use of the members of the Chilean security forces.

6. Freedom of Expression

6.1 Domestic legislation should be amended to guarantee that no citizen can be imprisoned for peacefully exercising his or her right to freedom of expression. The Code of Military Justice should be amended to prevent further proceedings against persons who have exercised this right.

7. Death Penalty

7.1 The death penalty should be immediately abolished, and all death sentences commuted.

8. Ratification of international instruments

8.1 The government should ratify the (first) Optional Protocol to the International Covenant on Civil and Political Rights, which enables the Human Rights Committee to consider at closed meetings communications from private individuals who claim to be the victims of violations of rights set forth in the Covenant. The usual rule is that such communications cannot be considered unless the individual has exhausted all

available domestic remedies. The Optional Protocol is an important instrument for the protection of the individual and for the correction of miscarriages of justice which may occur under any legal and political system. Every effort should be made to move toward ratification of the (second) Optional Protocol to the International Covenant on Civil and Political Rights Aiming at the Abolition of the Death Penalty.

December 1990

APPENDIX II

Extract from the torture testimony of Jaime Patricio Celis Adasme:

"... En la noche, aproximadamente a las 21.00 horas, me dejan solo. Como dos horas después, me interrogan sobre cosas de todo tipo entre varios agentes y practicamente toda la noche; hubo golpes de pies y manos en todo el cuerpo, menos en la cara y con un "tonto de goma" en los hombros. Hubo muchas amenazas con mi familia en el sentido que si no hablaba, matarían a mi mujer y a mis hijos. Todo esto se repitió el martes y el miércoles, especialmente en las noches ... No se me permitió dormir, y si lo hacía recibía un golpe. Sólo el viernes recibí un té con un pan. El jueves 11, me sacaron las esposas, la venda y me desamarraron los pies y me fue a ver el Ministro Señor Hernández. No denuncié nada por miedo y porque no sabía si era el Ministro o no. Me decían que tenían detenida a mi mujer. Escuchaba gritos de hombres y mujeres y música para acallar los gritos. El jueves, en la noche me pusieron corriente. Me bajaron a un subterráneo, creo; me desnudaron completamente, me subieron a un camastro metálico con una colchoneta delgada; me amarraron los brazos y los pies; me mojaron el cuerpo y con un par de cables, me dan golpes de corriente en el ano, testículos, oídos y sienes no sé por cuánto tiempo. Esto se repitió varias veces desde la noche del jueves y el resto de las noches hasta el domingo, inclusive. En el día, golpes en el interrogatorio. Permanentemente recibía amenazas con mi mujer y mis hijos ... Luego, me pasan a médico pero siento que estoy como soñando. Pienso que me drogaron con el té. Al médico no le dije nada. En la tarde sigue el interrogatorio con golpes. El martes 16, nos mandan a lavarnos y a mejorarnos, íbamos a prensa. Después me llevan a una oficina y me obligan a grabar un video con todas mis supuestas actividades políticas sufriendo todo tipo de presiones. Además, pasan a máquina lo mismo del video y debo firmar una serie de papeles, sin leerlos, incluso paperles en blanco ..."