INTERNATIONAL COMMISSION OF JURISTS

COMMISSION INTERNATIONALE DE JURISTES - COMISION INTERNACIONAL DE JURISTAS
INTERNATIONALE JURISTEN-KOMMISSION

109, ROUTE DE CHÊNE, 1224 CHÊNE-BOUGERIES / GENEVA, SWITZERLAND - TEL. 35.19.73
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ARRESTS AND DETENTIONS AND FREEDOM OF INFORMATION

IN CHILE

SEPTEMBER, 1976

(A Supplement to the Report of the ICJ Mission to Chile, April 1974).

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PART I ARRESTS AND DETENTIONS IN CHILE

A. LEGISLATION GOVERNING ARRESTS AND DETENTIONS

Three years after the military coup d'état, arbitary detentions of individuals continue to give cause for concern. These detentions do away with, or endanger, the right to freedom, security, integrity, life, protection from torture, and the right to justice and due process of law.

Political Constitution

By virtue of the Chilean Constitution and legislation, individuals can be arrested in two cases pursuant to the state of siege now in force:

(a) on grounds that they have been apprehended while in the act of committing an offence or on suspicion of having committed an offence, in the latter case only with a warrant from a judge of competent jurisdiction. In both cases they must be brought to justice within a time limit of 48 hours (or five days in cases of crimes against the security of the State): article 13 of the Constitution; section 1 of Decree Law No. 1009 and section 294 and related provisions of the Code of Criminal Procedure;

(b) by administrative arrest, pursuant to the exceptional powers granted in this respect to the President of the Republic by the Constitution (article 72, paragraph 17). The latter article alone empowers the President to "remove persons from one department to another and to place them under arrest in their own houses or in places which are neither prisons nor used for detention or imprisonment of common criminals". In the normal functioning of state institutions, supervision of these discretionary powers of the Executive would be entrusted to the Parliament and, in certain circumstances, by the judicial authorities.

Decree Law 228 - December 24, 1973

In the face of numerous denunciations of violations of the rights already referred to, the Chilean Government issued Decree Law No. 228 of 24 December 1973. This requires the fulfilment of certain legal formalities, inter alia, the prior issue of a written warrant, when carrying out arrests by virtue of the state of siege. These warrants must be in the form of a Supreme Decree signed personally by the Minister of the Interior.

Unfortunately this decree did not result in any improvement in the situation and abuses of every kind continued. Protests both inside and outside Chile increased. The courts, particularly the Supreme Court and the Court of Appeal, received hundreds of denunciations and "appeals for protection".(1) The ordinary criminal courts also received numerous denunciations in respect of alleged homicides and missing persons, described as the result of "presumed misadventure".

Decree Law 951 - March 31, 1975.

In spite of these protests, on 31 March 1975 a new Decree Law No.951, empowered local governors to carry out arrests and imprisonment by virtue of the state of siege. For this purpose in their warrants they were to use the formula "by Order of the President of the Republic".

Creation of D.I.N.A.

In the meantime, by Decree Law No. 521 of June 1974, the DINA (National Intelligence Directorate) was created, which was to become an all-powerful service responsible for political repression and for combating those alleged to be imperilling state security. In two years of operations, the DINA has accumulated an overwhelming number of irregularities and violations of human rights to its credit.

At the time of the military coup, 11 September 1973, repression was being carried out indiscriminately and the three armed forces and federal police were all implicated in this. Then a process of selection was undertaken and responsibility for political repression was given to the SIM (Military Intelligence Service), the SIN (Naval Intelligence Service), the SIFA (Air Force Intelligence Service) and the SICAR (Carabineros Intelligence Service). From June 1974 on, the DINA grouped together these various services and, although the latter continue to exist and to operate, the DINA has the major responsibility for operations ans is involved in almost all of the procedures for arrest and investigation of political suspects. Moreover, at the time of its creation, it already existed de facto in a very real sense. Once institutionalised, it became a powerful organisation, beyond any control even of the organs exclusively empowered to safeguard the security of individual citizens, such as the Judiciary. Its staff, both military and civilian, have been ordered not to appear before judicial tribunals, when summoned to give evidence on matters related to their functions. Its institutional structure makes it directly dependent on the military junta or, more precisely, on the President of the Republic himself.

Decree Laws 1008 and 1009 - May 5, 1975

In the face of the rising number of complaints and appeals, the Military Government issued Decree Laws Nos. 1008 and 1009 of 5 May 1975.

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(1) These are writs for protection against administrative abuse known as "recursos de amparo".

Decree Law No. 1008 does not provide any new safeguards, but is rather a further limitation of those already in existence. It purports to amend article 15 of the Constitution by laying down that, in cases of crimes against state security and during such time as a state of exception is in force, the time limit of 48 hours within which an arrested person must be brought before a judicial officer is extended to five days.

Decree Law No. 1009, as its title indicates, was issued for safeguarding the procedural guarantees of persons arrested for crimes against security. Nevertheless, it is only section 1 which refers to the matter indicated in the title. The remaining sections define new offences or modify existing offences by increasing the penalties, and widen the jurisdiction of the military tribunals.

With respect to the safeguards themselves, it is important to note that, pursuant to section 1, during the period in which a state of siege is in force, when the authorities detain persons presumed guilty of endangering state security, such persons must either be released or brought before a judge within a maximum of five days or, in cases of arrests by virtue of the state of siege, be within five days placed at the disposal of the Minister of the Interior. At the same time, the families of the arrested persons must be informed of their detention within a maximum of 48 hours.

These legislative decrees represented some progress in the context of the actual situation in the country, although they were a step backwards from the point of view of the legal provisions in force in Chile. The time limit provided in the Constitution and by law for the detention of a person without bringing him or her before a judge was increased as a result of the new provisions from 48 hours to five days.

The application of these provisions in practice shows that the provisions seeking to provide safeguards against arbitrary arrests have remained a dead letter in the great majority of cases. The safety and freedom of Chileans continues to lie in the hands of the security forces.

Supreme Decrees 187 and 146 - January and February 1976.

Once again the Government, recognising to a certain extent the abuses which were being committed, issued through the Ministry of Justice a new Supreme Decree No. 187 of 28 January 1976 to implement Decree Law No. 1009. Shortly afterwards this was supplemented by Decree No. 146 of February 1976, issued by the Ministry of the Interior.

Referring to Supreme Decree No. 187, the Secretary-General of the International Commission of Jurists, in an oral intervention before the United Nations Commission on Human Rights in February 1976 a few days after the Decree was issued, stated:

".....Article 3 of the Decree deals with arrest procedures and provides that no arrests can be made by the security authorities under the state of siege without the written authority of the head of the security organisation which effects the arrest. A number of comments may be made upon this. First, it deals only with people who are arrested pursuant to the state of siege. Many people can be and are arrested and ill-treated by the security authorities under other powers, such as the Law on Arms Control or the Law on the Security of the State. This Decree affords no protection in these cases. Secondly, this Article appears to be outside the competence of the Minister of Justice. Under the Constitution, the power to authorize arrests under the state of siege is conferred on the President alone. The Junta's Decree Laws Nos. 228 of January 1974 and 951 of March 1975 purported to extend this power to the Minister of the Interior and the Intendentes (local governors) respectively. The Minister of Justice cannot by his Decree extend this power to the heads of the security organisations. Thirdly, this new provision is in itself no protection against ill-treatment. There is nothing in the Decree to suggest that the security authorities will not continue holding suspects incommunicado for long periods, and no sanction is provided if they do. This is the crux of the matter, as it is this practice which makes possible the torture and ill-treatment of suspects.

"The Decree provides in Article 1 that those arrested by the security authorities must be medically examined before being taken to an interrogation or detention centre of the security authorities, and again before being transferred to another place or released. The doctors are to be designated by the Medical Legal Services and the National Health Service, and they are to render reports to the Minister of Justice. Again, this calls for a number of comments. First, experience leads us to doubt whether this Article will be carried out in practice. For a long time it was the law that no suspect could be arrested under the state of siege except under a written mandate of arrest signed by the Minister of the Interior. This decree was simply ignored and illegal arrests continued. Secondly, an examination by an official doctor on these occasions unfortunately does not carry conviction. Thirdly, and most important, these examinations will obviously reveal nothing if the security authorities are able to continue holding the suspects incommunicado until all traces of their torture or ill-treatment have disappeared. Fourthly, so long as detainees are still in the hands of the security authorities, they are too terrified to tell anyone of their tortures, for fear that they will be tortured by them again.

.....

"These considerations led our organisation to issue a press release in which we expressed our doubts about the new Decree and urged that suspects should be examined by a doctor of the suspect's choice or chosen by his family, and also that they should be examined every 48 hours while in the custody of the security authorities.

"The Decree also provides in Article 3 that a copy of the arrest warrant, signed by the head of the arresting organisation naming the place of detention to which the detainee will be taken, is to be given

within 48 hours to a member of his family designated by him. If this provision were carried out in practice, it would mark an improvement, since it would mean the end of the anonymous arrests by the security authorities. But again, there is no reason to believe that it will be carried out in practice, and no sanction is provided if it is ignored. Under Decree Law No. 1009 of May 1975 there was already a requirement that the family be notified of the arrest within 48 hours, but, like the decree law requiring a prior arrest warrant, it was simply ignored by the security authorities.

"Articles 4 and 5 contain some extraordinary provisions. Under Article 4 very wide powers of search are given to the security authorities which contain none of the normal safeguards contained in a judicial order for search. Article 5 provides that if any alien is deprived of his liberty under these powers, the Minister of the Interior shall take action to expel him from the country. In other words, a mere arrest on suspicion by the security authorities is to result in an automatic order for expulsion without any form of judicial process.

"Article 6 provides that the "places and establishments of detention" will themselves be designated by decree. It remains to be seen whether these will include the security authorities' interrogation centres, such as the notorious Villa Grimaldi, or whether they will merely name the regular places of detention such as Tres Alamos to which suspects are transferred after their interrogation is finished.

"Article 7 of the Decree provides that the President of the Supreme Court and the Minister of Justice or their designated officers outside Santiago can inspect places of detention without prior warning and can order a medical examination where ill-treatment is alleged. This sounds all very fine, but its effectiveness depends on the points I have already raised, and upon the extent to which the Supreme Court or the Minister will be willing and able to assert themselves."

On 10 February, pursuant to section 6 of Supreme Decree No. 187, Supreme Decree No. 146 was issued, naming all the places and institutions of detention which can be used for detainees arrestes by virtue of the state of siege. These are "Puchuncavi" in the Province of Valparaiso; and "Tres Alamos" and "Cuatro Alamos", both in Santiago. It also provides that temporary detentions can be effected in federal police stations and the buildings of the investigatory services.

This represents some progress with regard to "Cuatro Alamos" since, until the issuance of the Decree, it was not officially recognised as a place of detention.

B. APPLICATION OF THE LEGISLATION IN PRACTICE

Now that these new provisions have been in application for seven months - provisions described by the Chilean observer to the United Nations Commission on Human Rights in the most glowing terms with great optimism as to the benefits which would result from their application - it can be stated on the basis of concrete facts and experience that no appreciable improvement in actual practise has been achieved

and that the scepticism of the Secretary-General of the ICJ in this respect was well-founded. Annex A contains precise details of 23 cases of persons arrested subsequent to February 1976 and whose rights under the legislation have been violated in varying degrees. The abuses are continuing - sometimes to a lesser extent - but in such numbers that any improvement cannot be seen to attenuate the negative features.

Defects, arbitrariness and illegalities

Generally speaking, as concerns arrests and detention of individuals suspected of political offences, the following irregularities and abuses of authority can be noted:

(a) The arrests are carried out by heavily armed persons, dressed in civilian clothes and not identifying themselves as officers nor showing the warrants justifying their actions. They go about in automobiles without number plates so as not to be recognised. They enter homes and residences at any time of the day or night, often during curfew hours. They behave violently, make threats, strike the occupants, take goods and valuables and usually leave in haste with the arrested person blindfolded - without regard to age, sex or state of health. Sometimes they break into a house and remain there for several days, waiting for those whom they are seeking. On occasions they have arrested members of the suspect's family in order to get him to give himself up.

(b) They usually do not show any warrants, although they are under a legal obligation to do so. Under the legislation in force in Chile, officials empowered to carry out arrests - except in cases where the individual is caught in the criminal act - must show:
  (i) the judicial warrant for the arrest;
  (ii) for cases under the state of siege provisions, the Supreme Decree of the Minister of the Interior or, in a metropolitan area, the Order of the Governor for the arrests;
  (iii) in the case of special state security agencies, in addition, the written order of an appropriate judge or responsible official, which must contain the information set out in section 3 of Supreme Decree No. 187 (the designation by name of the person arrested and of the person effecting the arrest, the place to which he will be brought, etc).

(c) In all cases, a copy of the warrant of arrest must be handed over, within a maximum period of 48 hours, to a family member named by the detainee. In the majority of cases this requirement is not complied with and families only manage to find out where an arrested person can be found after considerable effort and a certain lapse of time and after worry and anxiety that can be easily imagined. In any case, some time elapses before they know whether the person will be detained without trial pursuant to the state of siege or whether he or she will be charged and brought before a military tribunal.

(d) Arrested persons are kept incommunicado in quarters belonging to the security services, for periods of time considerably longer than permissible by way of temporary detention. Such quarters are secret and hidden and are not among the three listed in Supreme Decree No. 146 as the only places at which persons arrested under the state of siege can be detained.

(e) It is during these periods of time and in these places that the ill-treatment and torture of prisoners take place.

(f) The officials who have not complied with the set procedures in carrying out arrests and forcible entry into private homes have not been sanctioned. It will be remembered that forcible entry requires the written order of the judicial officer of the security agency, which must be shown and a copy given to the owner of the house or the occupant. In the great majority of cases these requirements are not complied with.

(g) No steps have been taken against persons in charge of camps who have not ordered the required medical examinations to be carried out. According to the statements of some of the detained persons, examinations in some case were limited to providing certain data to a medical practitioner.

(h) Disappearances. Through this form of carrying out arrests, without any kind of control or supervision, the number of cases of detainees who have disappeared after their arrest has increased. This problem is becoming one of the most acute at the present time. It is difficult to calculate the number of persons who have disappeared since the coup, but some serious estimates place the number at between 1,000 and 1,500. There are a number of witnesses who have been detained imprisoned or released who have seen "missing persons" in clandestine centres for arrest and interrogation. Thus, on the occasion of the visit of the Chief Justice of the Supreme Court to the "Tres Alamos" camp in March, pursuant to the provisions of Supreme Decree No. 187, the detainees provided him with a list of 46 persons incarcerated there who have seen "missing persons" in one or another place of detention and were prepared to give testimony to this effect before the courts.

A list of persons who have been arrested and have disappeared since the beginning of 1976, together with a summary of the action which has been taken within Chile in their cases will be found at Annex B.

Judicial control

It appeared at one point that there was a possibility of a serious judicial control of the practice of holding arrested persons incommunicado, but unfortunately these hopes were dashed by a later decision of the Supreme Court.

On 9 April 1976, the Court of Appeals (Corte de Apelaciones) of Santiago on a recurso de amparo in favour of Ivan A. Parfex Alfaro and his wife Victoria Villagran Aravena said:

> "... as art. 72 number 17 of the Constitution does not grant the Chief of State the power to hold prisoners incommunicado, but only that of moving people from one Department to another and to have them arrested in their own homes and in places that are not jails nor are otherwise used for detention or prison of common prisoners, this incommunication has been ordered outside the cases contemplated by the law."; "... it is resolved that the incommunication of Ivan Parvex must cease at once, and he may remain under arrest but free to communicate...".

After a delay of 15 days, and after much deliberation and consultations, the authorities complied with this judicial order. This opened up for the first time the possibility that the security authorities could be made to comply with the law, and that prisoners could be held in more humane conditions. Unfortunately the decision did not last long.

In June 1976, the Supreme Court decided that holding prisoners incommunicado by virtue of the state of siege "... is not a matter comprised within the realm accorded to recurso de amparo by the Constitution and the law". This new principle was a step backwards in the protection of human rights. It amounts to an invitation to the Executive to continue to hold arrested persons in conditions which experience has shown lead in many cases to the practice of torture. Once again the highest judicial body in Chile has renounced its powers of supervision, powers which it always exercised in the past, up to the military coup of 11 September 1973.

PART II FREEDOM OF EXPRESSION AND INFORMATION

An analysis of the Chilean situation since the military coup to the present day shows that neither freedom of expression nor freedom of information is guaranteed and that what is left of these freedoms is being eroded daily by administrative measures which result in the closure of various organs of the press and confiscation of publications.

After the coup, the military authorities took immediate steps to control the mass media not favourable to their cause. They closed, or even attacked and destroyed the premises of broadcasting stations, periodicals and reviews and placed television stations under military supervision. As a result of this repression, some publications disappeared, others changed editors and, by the same token, editorial policy. Gradually the former system of censorship was replaced by that of "voluntary censorship" exercised by the media themselves. The editorial staff carefully screened information and comment in order to avoid the risk of closure, penalties, or even imprisonment of their reporters or staff. During the whole of this period, and particularly in the early months, cases of death, disappearance and arrests amongst journalists were frequent. Correspondents of foreign newspapers or news agencies were arrested and subsequently expelled from the country. One instance was the case of the "France Presse" reporters, M. Jacques Kauffman and M. Enrique Guzman, who were arrested and beaten because they had not sent through an officially released news item. Other cases include those of the Washington Post correspondents Novitsky and Omang and the New York Times reporter Kendall, who were expelled from Chile while they were carrying out their work as journalists. Further - and more frequently - many persons were given prison sentences for the offence of "spreading rumours".

Legislative Decree No. 1281, December 10, 1975

To establish these controls, the Military Government has made use of Legislative Decrees, Orders of the Ministry of the Interior and Military Edicts ("Bandas"). The most recent of the legislative measures taken in this respect, and one which is particularly illustrative, is Legislative Decree No. 1281 of 10 December 1975. By virtue of this enactment, the Military Chiefs of zones under a state of emergency (a state of exception which at present applies to the totality of Chilean territory) are entrusted with complete control of all information media. This Legislative Decree amends sections 31 and 34 of the State Security Act and by virtue of these amendments Military Chiefs have the power to suspend for periods stipulated in the decree, or interfere with, newspapers, magazines, handbills, any printed matter, and radio, television or other news broadcasting, which publish or broadcast opinions or news "tending to alarm or offend the people, distorting the true dimensions of the facts, or being manifestly untrue or in contravention of instructions...". In full accordance with the thinking underlying the Decree, the truth or falsity of news items or opinions, as well as the existence or otherwise of the other conditions set out,

are to be determined and evaluated by the respective Military Chief. Although provision is made for appeals against decisions to the Court Martial, the fact that any appeal proceedings do not have the effect of suspending the decision of the Military Chief renders the appeals of little or no practical effect.

This enactment gave rise to an immediate reaction in Chile. Bodies such as the Press Club, the National Press Association and the Chilean Broadcasters' Association, which hitherto had not adopted a position critical to the Government of the Junta, publicly called for the repeal of the Legislative Decree on the grounds that it violated freedom of information. Nevertheless it remained in force and its provisions were applied in a number of cases. One of these occurred recently in relation to a remarkable document prepared on the occasion of an intergovernmental meeting in Chile.

Open Letter by Five Chilean Lawyers

On 8 June 1976, on the occasion of the meeting in Santiago of the Sixth Assembly of the Organisation of American States, a group of five distinguished Chilean lawyers, resident in the country, presented to the Ministers of Foreign Affairs there present an open letter containing a courageous denunciation of the condition of human rights in Chile. They report facts known to them through their practices in defence of persons deprived of their freedom on political grounds. They request that the denunciation be considered officially by the Interamerican Commission on Human Rights, that the truth or falsity of the facts set out be investigated and that the abuses of power and illegalities to be found in the field of human rights at present be corrected. A translation of this document will be found at Annex C.

The twelve-page document refers to a whole series of illegalities, inhuman treatment of arrested persons and violations of rights for which the régime now in power in Chile is allegedly responsible. As soon as the matter became known, very violent attacks in the Chilean press were unleashed, accusing the lawyers of being "traitors", "turncoats" and similar insulting descriptions. Government officials joined in these attacks as well. The exceptions were Mr Sergio Diez and Mr Manuel Trucco, Chilean representatives to the United Nations and the Organisation of American States, who, although they disagreed with the facts set out in the document, defended the right of every citizen to formulate such a denunciation. They held up the denunciation as a clear indication of the respect which the Government of Chile has for other people's opinions, and, since the press had commented on it, as irrefutable proof of the existence of true freedom of the press.

Nevertheless, neither such respect nor such freedom of the press were of long duration. On 20 June, as soon as the OAS meeting had closed and before the departure of the delegates and foreign news correspondents, the Chief of the State of Emergency Zone of the Metropolitan Region issued over the signature of Rolando Garay Cifuentes, Military Edict No. 98, prohibiting the publication or

broadcasting of information "referring to matters contained in a presentation made by a limited group of lawyers", inflicting heavy penalties on anyone violating the edict. Almost immediately and by virtue of the implementation of the edict, the newspaper, "La Tercera de la Hora", was censored and did not appear for several days.

In August 1976 the two first signatories of the document, Dr Eugenio Velasco Letelier and Dr Jaime Castillo Velasco were expelled from Chile by administrative action, without any charge being preferred against them. They are both practicing attorneys and professors of law at the University of Chile. Dr Eugenio Velasco is a former Dean of the Faculty of Law and a former Ambassador of Chile and was a prominent critic of the Allende régime. Dr Jaime Castillo is a former Minister of Justice.

ANNEX A

IRREGULARITIES IN 23 CASES OF ARREST SINCE SUPREME DECREE 187 (30 January 1976)

1. Luis Armando CATALAN CAVIERES

Therapeutist by profession, resident in Av. Matta 71, Cerro los Placeres, El Progreso, Valparaiso. Arrested at his home on 30 January at 3.50 p.m. No warrant was shown or sent to his family. He remained incommunicado for 14 days. Transferred to military barracks "Silva Palma"; taken to Santiago and later to Tres Alamos camp. Some time afterwards it was made known that he was detained by virtue of DE 1900 of 6 February (under the rules of the state of siege) which was dated 7 days after his arrest.

2. Eduardo CATALAN CAVIERES

Modelist of shoes; his case is the same as that of his brother, Luis Armando Catalan Cavieres.

3. Ulises Jorge MERINO VARAS

Official at the Municipality of La Granja. Arrested on the street on 2 February at 2.30 p.m. According to a colleague who was with him, no warrant was shown. No copy of the warrant permitting his arrest was sent to his family. A recurso de amparo in his favour was presented to the Corte de Apelaciones of Santiago; questioned, the Ministry of the Interior said that "he is not detained". He has not been found to date.

4. Haydee OBERREUTER UMAZABAL

Student of pedagogy. Arrested on 3 February in a house at Av. C. Valdovinos 1460, San Miguel. No warrant was shown; the house was searched without an order. No warrant was shown or sent to her family. She has not been found to date.

5. Haydee UMAZABAL DE OBERREUTER

Mother of Haydee Oberreuter Umazabal, resident at Poblacion Marina Mercante, Block 2 No. 365, Depto H. Valparaiso. Kept under arrest in her home from 29 January to 1 February guarded by SIN (Servicio de Inteligencia Naval) officials. At no time was she shown a search warrant or one for her arrest. On 4 February she was released. She has no news of her daughter.

6. Julio Enrique NUNEZ FERRADA

Leader of the Union of Taxi Drivers of Quinta Normal, resident at Calle Trigal 1721, Santiago. Arrested on 5 February at 5.45 p.m.

No warrant was shown and he was only allowed to go to a neighbour's house, accompanied by a DINA official, to leave his three-year-old son. On 12 February the Ministry of the Interior stated that he was detained in Cuatro Alamos under DR 1903 of 9 February, incommunicado. In this case, too, the Decree was signed seven days too late.

7. Marco Aurelio ESPINOZA QUINTERO

Employee of the Cooperative Centre of the trade union of taxi drivers of Quinta Normal. Arrested on 5 February at 6 p.m. at the Cooperative's Social Centre, Calle Sante Fé 1856. No search warrant was shown and no warrant for his arrest was shown or sent to his family. On 12 February the Ministry of the Interior stated that he was detained in Cuatro Alamos by virtue of Decree 1903 of 9 February.

8. Ramon Antonio DIAZ HEREDIA

Treasurer of the Trade Union of Taxi Drivers of Quinta Normal. Also arrested on 5 February at the social centre that serves the Trade Union and the Cooperative. No search warrant was shown and no order of arrest was shown or sent to his family. The Ministry of the Interior gave the same information as in the two preceding cases. He remained incommunicado.

9. Marco Antonio DIAZ PLAZA

Fourteen year old student, son of Ramon Antonio Diaz Heredia. Arrested on the same occasion as his father. No order of arrest was shown or sent to his family. On 6 February at 10 p.m. he was set free at Avenida España corner of Blanco Encalada.

10. Carlos VIDAL MUÑOZ

Medican aide at Hospital Félix Bulnes; also worked at the Trade Union of Taxi Drivers of Quinta Normal; resident at Calle Catan 1166, Poblacion Simon Bolivar. Arrested on 6 February at 11 p.m., at his home, which was thoroughly searched although the officials showed no permit to do so. No order of arrest was shown or sent to his family. On 12 and 16 February he was taken to his home by DINA officials, and he could see his wife on both occasions. He was finally set free on 17 February at 1.30 p.m., but cannot identify the place where he had been detained. On 12 Fabruary the Ministry of the Interior stated that Vidal was NOT detained. However, the recurso de amparo includes sworn statements by witnesses who saw that he was escorted to his home on the 12 and 16 February and then taken away again.

11. Eduardo Aristo VERA RIVERA

Electrician by profession, resident at Av. Las Torres 2340, Conchali. Arrested at his home on 10 February. No warrant for his arrest was shown or sent to his family. He was at first held at Regimiento Buin, Santiago, but was later taken to a place unknown.

12. Jaime Manuel ZURITA CAMPOS

Civil engineer, specialist in electricity. Arrested on 13 February, at 10.30 a.m., at the home of Flora Viveros Espinoza, in Calle Emilio del Porte 1425, Providencia. The DINA officials who arrested him showed Flora Viveros Espinoza an order stating that he should remain under arrest in her home. Nevertheless, he was immediately taken away and he has not been traced. Engineer Zurita Campos had already been arrested on 22 October 1974, kept incommunicado for two months, transferred to Tres Alamos, and set free on 19 December 1975 under the amnesty decreed for 160 persons arrested by virtue of the state of siege. His name was on the official lists of persons to be freed which were published at that time.

13. and 14. Bernardo ARAYA ZULETA and Maria Olga FLORES BARRAZA de ARAYA

Married couple; the husband is 67 years old and his wife, 61. They live in Calle Barros Luco 1220, Quinteros, province of Valpariso. Mr Araya is former Member of Parliament and prominent union leader who was the first Secretary General of the Central Unica de Trabajadores (Single Central Chilean trade union). Both were arrested on 2 April in their home. No order was shown or sent to their family. DINA officials arrested them, as well as Maris Olga's borther, Juan FLORES BARRAZA, 59 years old, and three of the couple's grandchildren, who lived with them: Wladimir HENRIQUEZ ARAYA, 15 years old, Nikoska HENRIQUEZ ARAYA, 9 years old, and Eduardo ARAYA ROJAS, 9 years old. At the same time the home was thoroughly searched although no warrant was shown. All prisoners were taken to an unknown place. They were kept blindfolded for a long time; two of the children bear witness that their grandfather was tortured; they once could see him "hanging by the hands and moaning". Their grandmother had suffered from nervous shock after which she was transferred to her husband's cell. It was the last time the children saw her. On 3 April, at 10 p.m., the three children and Juan FLORES BARRAZA were set free, blindfolded, some five blocks away from the house where they had been arrested. A recurso de amparo was presented for the couple in the course of which the authorities stated that they were NOT detained.

15. Juan Carlos MUÑOZ URRUTIA

Aged 20. Arrested on 1 May, when he was leaving the Public Jail where he had gone to visit his brother who is serving a sentence for political reasons. Six DINA agents arrested him and immediately made him enter a Citroen car and bandaged his eyes with adhesive tape. They took him to a building which he does not know but believes to be "El Clarin", a newspaper closed down by the government. They took him to a room where there was only a chair, to which he was tied. Thus he remained until 6 May when he was taken for interrogation and his eyes unbandaged. Some minutes earlier he had been made to

swallow a pill which made him extremely dizzy, so that he cannot remember what he answered on being questioned. After the interrogation his eyes were bandaged and he was again tied to the chair. With his hands tied behind his back, he received electric shocks in his genitals and armpits; he was hung by the hands and beaten. On 10 May, still blindfolded, he was taken in a car to the place where the Panamerican Road crosses San Joaquin and set free at 9.45 p.m. A recurso de amparo had been presented during his disappearance, to no avail.

16. Onofre Jorge MUÑOZ POUTAYS

Civil engineer, specialist in mines, resident at Cerventes 2940, Santiago. Married, 42 years old, he was a prominent member of the Communist Party. Arrested on 4 or 5 May in a house at Calle Conferencia 1537, in Santiago, together with other important communists. According to the authorities, the Central Committee was in session. The DINA officials who carried out the search and arrests showed no order and sent none to the families of the persons they detained. The officials stayed in the house for several days but it seems that the next day Muñoz Poutays was taken away, with others, to an unknown place. Muñoz Poutays is married to Gladys Marin, ex-Member of Parliament, internationally known, now in exile. A recurso de amparo was presented in his favour; appeals were made to the President and to the International Red Cross. It was only on 22 July that the authorities admitted that he was detained.

17. Jaime Patricio DONATO AVENDAÑO

Mechanic and electrician by profession; married; 5 small children; resident at Padre Las Cases 2473, Conchali, Santiago. Trade union leader and President of the trade union of Chilectra workers. Arrested on 4 or 5 May in a house at Calle Conferencia 1537 under the same circumstances as Muñoz; he has also disappeared. The President of the Supreme Court, informed of these fact by the family, answered on 20 May that the DINA authorities, consulted, denied this detention, whereupon the President of the Supreme Court considered the matter settled. Inquiries were also made before the Minister of Justice, the Director of the DINA and the President of the country.

18. Mario Jamie ZAMORANO DONOSO

Worker in the leather industry, 45 years old, married; small children; resident at Estrella Solitaria 4245, Nuñoa, Santiago. Leader of the Trade Union of the Leather and Shoe Industry. Arrested on 4 May in the same house at Calle Conferencia 1537. The circumstances of his arrest and consequent disappearance are the same as in the other cases but more serious in that he was wounded by a bullet after being arrested. In spite of that, his family was never informed of his legal situation, his health or of whether or not he was still under arrest. In the house at Calle Conferencia the DINA concentrated up to 16 prisoners. Of the people who entered the house the only one who could regain freedom was a high ecclesiastical dignatory who, warned by neighbours and the families of the prisoners, had come to see what had happened. A recurso de amparo was presented in favour of this prisoner. Only on 22 July did the authorities admit that he was detained.

19. Roberto Octavio SILVA HERRERA

Manual worker; aged 21; married; two small children; resident at Toro Mazote 1711, Santiago. Arrested on 7 May by the DINA at his place of work, FAMASOL factory. He was the trade union delegate for section. Another labour delegate and the President of the Industrial Trade Union were arrested at the same time. At FAMASOL the workers considered that their salaries were too low and collectively decided to stop working overtime. The result of this claim was the arrest of these people by the DINA. No warrant was shown or sent to the family. The family believes that he is detained by virtue of the state of siege but cannot be certain. He was first taken to Cuatro Alamos and then to Tres Alamos. A recurso de amparo was presented in his favour and the proceedings are not completed.

20. Carlos Alfredo ACOSTA MARIN

White collar worker; Head of Personnel in MACUSA, manufacturer of leather goods. Married; two children; aged 35. Arrested at his home at dawn on 12 May by DINA officials who searched the house, taking away many books. They showed no search warrant or order of arrest but merely had his wife sign a document with the prisoner's name and address. The prisoner disappeared for several days and was maintained incommunicado for 15 days. On 28 May he was taken to Tres Alamos and the incommunication was lifted. A recurso de amparo was presented. A protest about the case was made to the Ministry of the Interior. While the prisoner's whereabouts were unknown an appeal was made to the International Red Cross.

21 Eloy RAMIREZ VALENZUELA

Secretary General of the Federation of Press Workers, 44 years old, married, two children, resident at Calle Bulnes 267, Santiago. Arrested on 12 May at 3 p.m., at his home, by a group of many men and women who did not identify themselves or show a search warrant or order of arrest, but searched the house and took away many things. A recurso de amparo was presented on his behalf with no results.

22. Juan CORREA CORREA

Majordomo's aide, 45 years old, married, one daughter. Arrested on 12 May at 3 p.m. in the same place, by the same people and under the same circumstances as Eloy Ramirez. A recurso de amparo was also presented on his behalf, to no avail.

23. Jorge Enrique MADAUNE JIMENEZ

Electrical technician, 73 years old, married, five children. He has been President of the College of Electrical Technicians. His health has been poor, as he contracted a heart disease in October, 1972, and later had a heart attack. Arrested by the DINA

on 12 May at 1.30 a.m. in his home and in the presence of his 68-year dd wife. The officials showed no warrant for his arrest nor did they later send one to his family. They had no search warrant but searched the house. He was taken to Cuatro Alamos where, in spite of his age, he was kept incommunicado for 17 days. He believes he is detained by virtue of the state of siege but cannot be certain. A recurso de amparo was presented, to no avail. Appeals were made to the President of the Supreme Court and to the Minister of Justice, with no results to date.

These cases show but a few of the violations of human rights committed after 1 February 1976. In no case were the legal provisions respected that regulate the way to carry out an arrest; in most, homes were illegally searched and, what is worse, in many cases the authorities do not admit the arrest, and therefore, the persons concerned have just disappeared. In almost all cases the family appealed to the judiciary through a recurso de amparo, and also to different authorities, always to no avail.

ANNEX B

PERSONS ARRESTED SINCE JANUARY 1976, WHO HAVE DISAPPEARED

Name and action taken	Date of arrest
1. AGUILERA APABLAZA VICTOR	16 Jan. 76
26/1 Petition to the Justice Department	
2. BOETEGER VERA, OCTAVIO JULIO	17 Jan. 76
21/1 Habeas Corpus Petition No. 86-76	
6/2 Habeas Corpus dismissed and presented to the Criminal Court	
25/2 Letter to the Minister of Interior	
24/3 New Habeas Corpus Petition	
3. CANCINO ARMIJO, ADAN DEL CARMEN	3 Jan. 76
Habeas Corpus Petition	
4. PEREZ ROMERO TERESA DE JESUS	27 Jan. 76
6/2 Protest presented to the Justice Dept.	
5. SALAZAR CORNEJO, MIGUEL	Jan. 76
6. MERINO VARAS, ULISES	2 Feb. 76
5/2 Habeas Corpus No. 122-76	
10/2 Ministry of Interior declares he is not under arrest	
19/4 Petition to Ministry of Interior requesting information	
27/4 Habeas Corpus rejected	
7. WEIBEL NAVARRETE, JOSE ARTURO	29 March 76
29/3 Habeas Corpus No. 251-76	
2/4 Protest to the Ministry of Interior for kidnapping	
12/4 Letter to the Ministry of Interior requesting end to his state of "incommunicado"	
8. ARAYA ZULETA, BERNARDO	2 April 76
4/5 Habeas Corpus No. 264-76	
19/4 Ministry of Interior informs he is not under arrest	
15/4 Letter to Ministry of Interior requesting information	
19/4 Presentation to the President of Supreme Court	
29/4 Request to Ministry of Justice for site inspection	
9. ESCOBAR CEPEDA ELISA DEL CARMEN	10 April 76
28/5 Habeas Corpus	
10. EUGENIO EUGENIO, BASILIO	29 April 76
7/5 Habeas Corpus 368-76	

Name and action taken	Date of arrest
11. FLORES BARRAZA, MARIA OLGA	2 April 76
5/4 Habeas Corpus No. 264-76	
19/4 Ministry of Interior informed she is not under arrest	
15/4 Request made to Ministry of Interior for information	
19/4 Presentation to President of Supreme Court	
29/4 Request made to Ministry of Justice for a site inspection	
12. GONZALES ARRIAGADA, FERNANDO	30 April 76
3/5 Habeas Corpus	
19/5 Request made to Ministry of Interior for release	
13. HERNANDEZ ZAZPE, JUAN HUMBERTO	3 April 76
28/5 Habeas Corpus Petition	
14. MENA ALVARADO, NALVIA ROSA	29 April 76
30/4 Habeas Corpus Petition No. 352-76	
1/6 Habeas Corpus rejected	
12/5 Request for Information to Ministry of Interior	
17/5 Ministry of Interior informs she is not under arrest	
15. MONTOLINO CACERES, WLADIMIR	2 April 76
16. MONTOLINO RODRIGUEZ, ANTONIO	
17. MUJICA MATURANA, MOISES EDUARDO	29 April 76
29/4 Habeas Corpus Petition	
18. RECABARREN ROJAS, MANUEL SEGUNDO	30 April 76
Action on his behalf same as for Mena Alvarado, Nalvia Rosa	
19. RECABARREN GONZALEZ, LUIS EMILIO	29 April 76
Same as above	
20. RECABARREN GONZALEZ, MANUEL GUILLERMO	29 April 76
Same as above	
21. TAMAYO MARTINEZ, MANUEL JESUS	April 76
24/4 Habeas Corpus Petition	
22. ALVARADO GONZALEZ, MAURICIO	19 May 76
20/5 Habeas Corpus Petition	
23. BARRAZA RAMIREZ, ELIAS FRANCISCO	4 May 76
18/5 Habeas Corpus Petition	
24. CAMPOS GARRIDO, BALDOMERO	12 May 76
13/5 Habeas Corpus Petition	
25. CONCHA BASCUNAN, MARCELO RENAN	10 May 76
12/5 Habeas Corpus Petition	

Name and action taken	Date of arrest
26. CORTES FLORES, JUAN ORENZO Habeas Corpus	17 May 76
27. DIAZ LOPEZ, VICTOR MANUEL 14/5 Habeas Corpus Petition No. 405-76	10 May 76
28. DIAZ SILVA, LENIN ADAN 20/5 Habeas Corpus Petition	9 May 76
29. DONATO AVENDANO, JAIME PATRICIO 19/5 Habeas Corpus Petition No. 418-76 This person is included in the group along with Mario Zamorano and Jorge Munoz Poutays for whom action in their behalf is being taken as a gnoup. 26/5 Request file on him 26/5 Letter to the Presdient of the Republic 26/5 Letter of the President of Supreme Court 26/5 Letter to the Minister of Justice 26/5 Interview with President of Supreme Court 28/5 Letter to Coronel Manuel Contreras Sepulveda (DINA) 28/5 Letter to Undersecretary Mr Montero	4 May 76
30. ESPINOZA FERNANDEZ, ELIANA MARINA 18/5 Habeas Corpus Petition	12 May 76
31. ELIZONDO ORMACHEA, ANTONIO 3/6 Habeas Corpus Petition	26 May 76
32. FUENZALIDA RUIZ, LUIS EDUARDO 13/5 Habeas Corpus Petition	12 May 76
33. GOMEZ MARTINEZ, OSVALDO 20/5 Habeas Corpus Petition	12 May 76
34. LARAS ROJAS FERNANDO ANTONIO 13/5 Habeas Corpus Petition	7 May 76
35. LOPEZ SEGURA, SEVERINO DEL CARMEN 20/5 Habeas Corpus Petition	12 May 76
36. MADAUNE JIMENEZ, JORGE 17/5 Habeas Corpus Petition	12 May 76
37. MAINO CANALES, JUAN BOSCO	May 76
38. MALDONADO FARIAS, ALEJANDRO 13/5 Habeas Corpus Petition No. 392-76 Habeas Corpus Petition denied	12 May 76
39. MORALES RAMIREZ, MIGUEL LUIS 11/5 Habeas Corpus Petition No. 377-76	3 May 76

Name and action taken	Date of arrest
40. MUNOZ POUTAYS, JORGE ONOFRE	5 May 76
14/5 Habeas Corpus No. 402-76	
All other actions on his behalf same as Jaime Donato Avendano	
41. NUNEZ BENAVIDES RODOLFO MARICLA	18 May 76
20/5 Habeas Corpus Petition No. 425-76	
42. NUNEZ ROJAS LUIS HERNAN	25 May 76
31/5 Habeas Corpus Petition	
43. PALMA MUNOZ, JOSE RUPERTO	12 May 76
20/5 Habeas Corpus Petition	
44. PAREDES PEREZ, ERNESTO ENRIQUE	15 May 76
27/5 Habeas Corpus Petition	
45. PARRA SANHUEZA, PEDRO DANIEL	12 May 76
17/5 Habeas Corpus Petition No. 396-76	
Denied, for no record of arrest.	
46. QUEZADA ARQUEROS, LAUTARO NICOMEDES	17 May 76
24/5 Habeas Corpus Petition No. 434-76	
47. REKAS URRA, ELIZABETH DE LAS MERCEDES	26 May 76
3/6 Habeas Corpus Petition	
48. SANCHEZ LEIVA, MANUEL JESUS	16 May 76
20/5 Habeas Corpus Petition	
49. SILVA DOMINGUEZ, JORGE	11 May 76
25/5 Habeas Corpus Petition	
50. VALDES VALENZUELA, SOFANOR	12 May 76
24/5 Habeas Corpus Petition	
51. VALDIVIA GONZALEZ, OSCAR DANTE	27 May 76
27/5 Habeas Corpus Petition	
52. VALENZUELA BARRAGAN, HORACIO ARIEL	7 May 76
10/5 Habeas Corpus Petition No. 372-76	
Denied, no record of his arrest.	

(Note: Numbers 6, 8, 11, 29, 36 and 40 above are also referred to in Annex A in connection with their illegal arrest).

ANNEX C

OPEN LETTER BY FIVE CHILEAN LAWYERS

Santiago, June 8, 1976

His Excellency
The Minister of Foreign Affairs

Mr Minister:

We, the undersigned, are members of a group of lawyers residing in Chile and practicing our profession in this country.

We have been following with interest and concern the world debate on the problem of human rights. We adhere fully to the United Nations Universal Declaration and stand ready to fight in order that it may become a reality in all the countries of the world. Consequently, we are categorically opposed to any attempt to justify specific situations - whether they may involve doctrine, government, or party - in which human rights, understood in the full meaning of the aforementioned declaration, are trampled upon.

We have observed that insofar as Chile is concerned the debate appears to involve - in the eyes of world public opinion - only two sides, one being that of Chileans living abroad, former supporters of the Government of Salvador Allende, who have been affected by specific coercive measures, and the other being that of Chileans living in Chile who deny the existence of any human rights problem. That, in our judgment, is only part of the reality. We are convinced that an enormous number of citizens within the territory are very well acquainted - better so than anybody else - with the situation and are able to give concrete, objective, and unquestionable testimony about the problem. We consider that we are members of that group. By virtue of our professional experience we are qualified to give that testimony, not because we may have any personal grievance, but because we know the law, we work in the courts, we are in touch with the administrative and political authorities, we participate in the welfare and legal assistance work of the various churches, and, above all, we are in daily contact with a large number of specific situations related to this problem.

On the occasion of the Sixth Assembly of the Organisation of American States, held at Santiago, we considered that we should not remain silent. We are not promoting any movement originated abroad

or serving any anti-government political interests. Both the Government of Chile and such outside movements must be subjected to rigorous scrutiny. If systematic and widespread violations of human rights are proved to exist, the Government of Chile must be held accountable for them. In contrast, if such violations do not exist, the responsibility for the accusation must fall on those who made it. But this requires a free and broad investigation, giving the accused Government an opportunity to prepare an adequate defence, with the obligation to put an end to inhuman practices and laws if they are proved to exist.

This is not a clandestine document. It is public document. We hope that the Chilean representatives to the Assembly will be able to answer the criticism and accusations contained herein. We recognise our responsibility and expect others to assume theirs.

1. The State of Siege as a Permanent and Systematic Situation

Since September 11 the country has been in a state of siege and emergency. Until September 11, 1975 there was also a state of war. These measures, which were originally designed as extraordinary measures and limited to a specific duration, are being extended systematically every time the six-month period allowed under the Constitution expires. The rule establishing the time limit has in fact been nullified. Decree Law No. 1281 of December 11, 1975 made a state of siege a permanent regime.

Under the Constitution, a state of siege must be declared in case of internal disturbance, but the Executive cannot maintain it against the will of the Congress. Today, the Government has assumed all powers. It simply issues a decree law extending this extraordinary measure, and the country, therefore, is deprived of normality. This is in conflict with the constant declarations made by the Government to the effect that there is perfect calm in the country.

The purpose of the state of siege is being defeated by a repressive policy. Indeed it may be said that:

(a) there is no longer any internal disturbance and therefore the successive declarations now represent an abuse of power;

(b) the state of siege grants the Executive only the power to transfer persons to or detain them in places other than jails; however, so many persons are being arrested or transferred to places of detention that prisoner camps are being established where security forces hold persons incommunicado during periods determined arbitrarily, interrogate them illegally, make them serve prison terms, or hold them in places unknown to the people in general and often even to the highest officials;

(c) the state of siege is a measure designed to prevent acts against the security of the State, but it should in no case be used as punishment or as a substitute for a court of law. Unfortunately, however, it is being used as such in many of the detention cases carried out under its provisions.

Such was the case of the distinguished jurist Hernan Montealegre Klenner, who was illegally arrested, inasmuch as he was not presented with any supreme decree, was not engaged in any political activity whatsoever, was not a militant of any party, was not given explanation for his arrest, and was arrested only because he had agreed to be defence counsel for persons being brought before courts martial;

(d) in the spirit of the Constitution the authority granted by the state of siege is not intended for use as an instrument for the large scale detention of citizens, a phenomenon which under other regimes is being described as a permanent and unrestricted purge. That is what is happening in Chile today. It is not that after September 11 it became necessary to adopt measures to control a large number of dangerous elements that is now decreasing. Almost three years have passed and the process of large scale imprisonment of citizens is still in progress. Persons who during that time were not considered dangerous are now being placed in that category - relatives of other persons who are under arrest, dissidents, members of parties other than Unidad Popular, persons who express the slightest criticism or who are members of certain organisations in universities, trade union, etc. Persons enter and leave prison camps incessantly. There are no permanent figures. Thus the concept of the state of siege has been distorted, as we have indicated above.

2. The Conversion of Intelligence Services into a Secret, Irresponsible, and All-Powerful Police Force

Nobody questions the fact that the internal security of nations requires an intelligence service, given the complexity of contemporary problems. However, nobody questions the fact either that the dark history of secret police forces, developed in the shadow of the totalitarian states of this century, cannot continue without leading mankind into a new primitivism.

This may be seen in our country. The intelligence services began to assume powers beyond those of their intelligence functions and reaching into the area of extra-legal investigations, including the right to determine the fate of persons, from the beginning of the present Government. Such services were subsequently organised under the name of Direccion de Inteligencia Nacional (National Bureau of Intelligence). The formalization of this new power was made public only by means of Decree Law No. 521 of July 14, 1974, which established that DINA has the mission of gathering intelligence for the adoption of measures to protect national security and the development of the country. The organisational structure of the bureau was to be established by a regulation that nobody knows in Chile. The staff is made up of Armed Forces personnel, but other personnel may be contracted by supreme decree signed by the Ministry of the Treasury. Not one of these supreme decrees has ever been made public, but a large number of civilians are working for DINA and no one who has ever had anything to do with them has ever failed to

notice that these persons are recruited from the lowest moral, cultural, and and criminal strata of society. DINA's budget must be included in the nation's Budget Law. The truth is that nobody knows anything about it and nobody dares to ask. Decree Law No. 521 is, as a logical consequence of this anomalous juridical institution, a juridical aberration. It states that three of the articles of the legal text are classified (cf. sole transitionary article). The people are thus subject to provisions they do not know. This juridically unsound situation has never been submitted for consideration to the President of the Republic by the Judicial Branch or the Chilean Bar Association.

Likewise, DINA is under the exclusive supervision of the Military Junta and today, de facto, under that of the President of the Republic. Its decisions are not reviewed by the Ministry of the Interior, except a posteriori and well after they are made.

Members of the DINA are forbidden to appear before the courts, even when subpoenaed, according to what the Bureau Chief normally tells the military and civilian judges and the courts, claiming that the order comes from the President of the Republic.

Criminal proceedings for murder, kidnapping, missing persons, rape, etc., brought against persons arrested by DINA agents always have to be dismissed because the judges never succeed in getting DINA personnel to appear in their courts. The Government, moreover, considers all investigations closed as soon as it receivs a DINA report denying having arrested the dead, missing, kidnapped, or raped person. Lastly, the Court of Appeals and the Supreme Court always accept Ministry of the Interior reports based on information supplied by DINA, and claims, anxieties, and tragedies pass into the world of absolute silence and secret su ering of the families affected. The country's press does not welcome, except in very exceptional cases, information of this type, and the hostility of the censoring services against certain communications media is based in large measure on the fact that they have transgressed that line.

It should be added that DINA, in accordance with the decree that established it, lacks authority to act independently. It can do so only by means of a judicial order or supreme decree of the Ministry of the Interior. However, it habitually disregards that requirement, and has thus created an anomalous situation that even the Government has been unable to correct, as will be seen later.

3. The Immediate Consequences of the System Described Above

Our experience as defence attorneys leads us to expose in the strongest terms possible a series of events which we are witnessing from day to day and which are contrary to the essence of the human rights universally recognized by the United Nations.

A brief summary of these events follows:

(a) The Constitution, the laws, the jurisprudence, and the treatise writers of Chile have clearly established that under the state of siege

arrests must be made in conformity with established procedures, including the issuing of a supreme decree signed by the Minister of the Interior. Otherwise the arrest may be invalidated through the remedy of amparo or habeas corpus.

For all practical purposes, these formalities were not observed during an extended period following September 11, 1973. Nonetheless, appeals (amparo) were dismissed by the courts without more arguments than the sole mention of the existence of the state of siege.

In view of the long list of abuses the Government itself had to issue Decree Law No. 228 of December 24, 1973, ratifying the doctrine and demanding compliance with the formalities. Unfortunately, the second article of that Decree Law absolved of all responsibility - thus trespassing upon the power of the Judicial Branch - those who had violated the law and thus made it possible for the situation to remain unchanged. In fact, arrests have continued to be made directly by DINA without participation by the Ministry of the Interior, that is, without a supreme decree issued in the name of the Government Junta. This practice is subsequently ratified by the Ministry and the fate of the arrested person is thus permanently cast and justice paralyzed.

The system of detaining citizens illegally led, as it natural, to illegalities in the time and form of detention. Three very serious factors are worthy of mention:

First: The time of detention by the security forces is indefinite and arbitrary;

Second: The application of measures that aggravate detention, such as illegal solitary confinement for indefinite periods, has become customary;

Third: Extra-judicial, unconstitutional, and coercive questioning is becoming an essential part of the system.

Again the Government, in the face of an avalanche of abuses, attempted a formal corrective measure. It issued Decree Laws Nos. 1008 and 1009 easing the conditions of arrest and giving more guarantees to the families of the arrested persons. It was decreed that authorities having the power to arrest persons for reasons of the internal security of the State would have to release such persons to the courts or the Ministry of the Interior within five days and would have to inform their families of the reason for the arrest within 48 hours. Also, through a curious association of ideas, the decrees reiterated the punishment established for those who exerted illegal pressures upon the persons arrested.

Again unfortunately, these provisions have remained a dead letter. Arrests continue to be made without supreme decree or signature of the Minister of the Interior. Families are not receiving notifications in many cases. The persons arrested are still being

held over five days without their cases being decided upon by the authorities mentioned in the Decree Law.

Moreover, it should be noted that the aforementioned period means altering the 48-hour limit set by the Constitution within which authorities empowered to arrest must transfer the person arrest to the judge. Furthermore, this means that DINA may hold a person in prison for five days, although it lacks the power to arrest independently, as was explained above. Decree Law No. 1009, therefore, if complied with, would appear to improve the situation of the persons affected, but that would not mean progress in terms of the law in force in Chile, although it would in terms of DINA's secret practices. Moreover, this organisation is tacitly recognised as the true administrator of the state of siege, since the Ministry of the Interior only intervenes - at best - five days after the arrest ... and then only to accept the exercise by another of a power that the Constitution and the law grant to it exclusively.

Lastly, arrests are being carried out by means of the simple procedure of having armed men in civilian clothes arrest the citizens in their homes or in the streets, leaving no trace whatsoever. There is no record of their acts. The Ministry of the Interior does not know the facts. DINA denies them. But a large number of people have disappeared from their homes after these armed men appeared at their doorstep to arrest them. The security services have not identified these kidnappings as having been carried out by gangs of subversives and everything has been covered up by means of a statement prepared in advance. These are premeditated acts carried out to influence the attitude of the Foreign Ministers meeting in Santiago.

4. Other Dire Consequences of the Present System

a. Clandestine Places of Imprisonment

The Constitution states that persons arrested pursuant to the state of siege must be detained in a place other than a prison or their own home. This has always been taken to mean that such a place should in no case be inferior to a jail or common prison.

However, reality in Chile is very different. There are now just three known places of imprisonment: Tres Alamos, Cuatro Alamos, and Puchuncavi (Regulatory Decree No. 187). Of those, Cuatro Alamos, never mentioned until a few months ago, is intended for persons held strictly incommunicado and submitted to unknown proceedings for lengths of time determined exclusively by DINA. That is not all. That organisation maintained and still maintains a huge quantity of secret places of imprisonment, the names of which have been published in international reports without their being refuted by the Chilean Government. In some cases it has explicitly confirmed them, as with the house at Calle Londres 38, Santiago, which the OAS Commission was not permitted to visit and which was then closed. Another such place is Villa Grimaldi on Avenida José Arrieta, Santiago, where many prisoners have been held regularly without any intervention by the Ministry of the Interior or any other authority.

This statement is confirmed in two ways:-

First: The Government itself had to enact Regulatory Decree No. 187 which reduced the prison camps to three and empowers the President of the Supreme Court and the Minister of Justice to visit them when they see fit, along with other measures designed to safeguard the lives and health of the detainees.

Second: Visits made subsequently by the aforesaid high officials by virtue of those provisions established, in public communiqués, that Villa Grimaldi had been used to interrogate detainees. At least one detainee was seen by the Minister himself and interrogated in his presence.

It must be added that despite such visits (for the rest, the three camps are a big step forward), conditions at Cuatro Alamos are unchanged and the activity at Villa Grimaldi proceeds as before.

b. Torture

An impressive number of statements confirm the charge that torture is practiced in Chile in clandestine places of imprisonment and also at Cuatro Alamos. This is strongly suggested, moreover, by the type of personnel used by DINA, the complete denial of defence to the detainees, the absence of examining magistrates assigned to the cases, the ignorance which the Ministry of the Interior maintains, the practice of holding persons incommunicado, the illegal circumstances surrounding detention, the lack of any public action of sanctions against torturers, the freedom from legal liability given to DINA officials, etc.

We believe a simple visit to the prison camps would suffice to show how, in many cases, the detainees bear marks of such treatment on their bodies.

c. Disappearances

An impressive number of statements and evidence of many kinds also makes it seem likely that many persons arrested by military patrols or DINA operatives have disappeared. There have been several cases of violent death not attributable to other hostile action (for example, Lumi Videla), and others in which the arrest took place in front of members of the family, with witnesses from the time during which the persons in question were held in secret locations, etc.

The whole world was moved when the Argentine and Brazilian press announced the death or disappearance of 119 Chileans as a result of guerrilla encounters with the Armed Forces. That was a distortion. The people involved were, in fact, young persons who had previously been arrested by the Chilean authorities or their representatives. They were detained illegally and the

places of imprisonment were never made known to the families. Inquiries concerning their whereabouts met no reply. The Ministry of the Interior's official investigation stuck strictly to the DINA report, i.e., a report prepared by those criminally responsible for illegal detention and morally responsible for those persons' deaths. The problem remains untouched, the Chilean Government,despite official promises, having provided no explanation, no acknowledgement, and no information about the investigations ordered. Today the number of those who have disappeared is much higher. The judicial branch, represented by the Supreme Court, has declined to appoint a Minister of Visits to examine charges of mass disappearances. Studies on the matter now exist which will be presented to the Government for a final clarification.

d. Official Reply by the Chilean Government to the above-mentioned Charges

The countries of America and the world already know the Government of Chile's arguments in support of the thesis that its authorities act in compliance with guarantees of citizens' rights.

One argument consists in recalling the condition the country was in under the former Government. As we stated earlier, the undersigned were opponents of that Government. However, we cannot consider that a valid reason not to face what is happening in the country today.

A second argument points out that other countries are violating human rights and are not in a position to point a finger at Chile. We regard this argument too as dilatory. No wrongdoing by others authorizes Chile to violate those fundamental rights. This country should admit investigative commissions precisely to give the lie to those who might accuse it unjustly.

A third argument holds that accusations against the Government of Chile constitute intervention in its internal affairs and thus infringe the principle of nonintervention. This reasoning is not valid either. International organisations, whether worldwide like the United Nations or regional like the OAS, have to comply both with the principle of nonintervention and that of respect for human rights. These are not contradictory but complementary.

A fourth argument is that the reports are based on statements obtained outside of Chile. It, too, must be rejected. The Chilean Government denied entry to a group appointed by the United Nations Commission on Human Rights. How was it to question witnesses in Chile? It also maintains a close watch on, and even permits reprisals against, persons who communicate with foreign observers, as in the case of José Zalaquett who was arrested and expelled from the country after communicating with three members of the Congress of the United States. The explanations given for that action by the Ambassador of Chile to the OAS are different from those given by the Government of Chile. As of this very time, Chilean delegates speaking with the members of the group appointed by the United Nations were unable to give specific guarantees in respect of persons who might place evidence before the group if it came to Chile.

A fifth argument denies the validity of the charges. However, it is impossible to support the Government's official position after reading its reply to the UN group (the current reply to the report of the OAS Commission is not known in our country). Nobody who is informed of the facts and can evaluate the documents will arive at the conclusion that the Government has proved its thesis. On the contrary, the gaps, the inexactitudes, the futile arguments, and the overwhelming evidence to the contrary are conspicuous. As a single example of the lack of probative value in the Government's reply we mention the following incredible fact:

The Government of Chile attaches as annexes some 70 sworn statements by detainees who, upon regaining their freedom at Cuatro Alamos, attest before a notary that they have been treated correctly and that references to torture grow out of an international campaign against Chile.

An examination of those documents shows clearly, as any court would find, that they were subjected to an ideological falsification in order to make the detainees say what the authorities of the camp wanted them to say. The attempt to prove the fact in the forum of the United Nations is, in fact, a criminal act. It is additional evidence for what we are saying.

The Judicial Branch and the Bar Association

It is painful for us to analyse the behaviour of the judicial branch and our bar association in relation to this matter.

Under the Allende Government and earlier, they both tended properly to remain independent of the political interests of the Executive Branch. It should be added that during the 1970-73 period the courts were especially quick to defend the rights of citizens /threatened by/ the administration; they even took part in public altercations with the President of the Republic in which political concepts played a prominent part.

We support that attitude. But in these times nothing like it is happening. Chilean courts of justice have not protected the constitutional rights of any Chilean since September 11, 1973, arrested by the mechanisms described above. Habeas corpus has been a dead letter in our traditionally democratic country. The Supreme Court voluntarily abandoned, in the fact of its own history and the pertinent legal norms, its right to hear appeals against abominable verdicts by the Military Tribunals, particularly during the present Government's first years. The lower courts have confined themselves to matters relating to trials for homicide, kidnapping, rape, etc., sometimes out of lack of interest or fear and sometimes because of extrajudicial circumstances created by the Secret Security Service. Frequently the only alternative for judges and other court officials is simply to declare themselves incompetent. Even the journalists of the regime seem to have the

right to insult and slander citizens. No one and nothing restrains them. Only a handful of judges have preserved the honour of their vocation, and for doing so have suffered the hostility of the regime's stalwarts.

The Bar Association has also given up its duties. A group of lawyers have held on to their appointments to the Council, taking advantage of the circumstance that the Government has prohibited meetings and elections. Their role has consisted of supporting the Government, even in matters outside their competence. Defence of persecuted colleagues has always been lukewarm, timid, sometimes justifying the measures taken. All that has been done in accordance with political rather than professional criteria, without their being evidence that might justify Government action against their colleagues.

Mr Minister: In preparing this report, the undersigned lawyers know perfectly well that they will be attacked, insulted, and threatened by sections of the press and even official Government circles. This has begun with certain references by the Coordinator of the Assembly to documents that might be presented to the Foreign Ministers. Use has been made of the word "treason," which carries political and criminal implications.

However, the Organisation of American States is meeting to analyze the human rights situation in the hemisphere, among other things. It is natural that statements designed to clarify the facts should be submitted to it. We are serving Chile, the hemisphere, and humanity when we denounce the facts we have just indicated. Therefore, we stand ready to exchange views with the Chilean Government on the evidence. Our attendance can be requested in the form that it deems appropriate.

In conclusion we ask that:

First: this text be officially acknowledged and studied by the OAS Commission on Human Rights;

Second: that an investigation be carried out concerning the facts and data provided;

Third: that emphasis be laid on the appropriateness of a continuation by the Commission on Human Rights of investigations initiated earlier, granting the Government of Chile the necessary conditions for expressing its point of view and guaranteeing a general procedure for the investigation of such violations in any country of America;

Fourth: that the role of the Organisation of American States be strengthened in regard to human rights; and

Fifth: that a recommendation be prepared designed to put an end to the grave distortions of law observable in our country's current institutions governing human rights and matters mentioned in this document.

Respectfully,

(Signed): Eugenio Velasco Letelier

Attorney-at-Law; Professor Emeritus of the University of Chile; Member of the Academy of Social Sciences of the Institute of Chile; Former Dean of the Faculty of Legal and Social Studies of the University of Chile; Former Director of the School of Law; Former Professor of the School of Law; Former Ambassador of Chile.

(Signed): Jaime Castillo Velasco

Attorney-at-Law; Professor at the University of Chile; Former Minister of Justice; Former Representative of Chile to the Commission on Human Rights of the United Nations.

(Signed): Héctor Valenzuela Valderrama

Attorney-at-Law; Former President of the Chamber of Deputies; Former Delegate of Chile to the United Nations; Former Delegate of Chile to the Organisation of American States; Former Professor of the Catholic University.

(Signed): Andrés Aylwin Azócar

Attorney-at-Law; Former Professor at the University of Chile; Former Deputy to the National Congress for three terms.

(Signed): Fernando Gusmán Zañartu

Attorney-at-Law; Former Head of the Penal Department of the Committee on Cooperation for Peace in Chile.