

relating to human rights violations committed before March 1978, under the military government. The SR states that the ruling reestablished the independence of the judiciary.

Sale of children, child prostitution, child pornography, Special Rapporteur on: (E/CN.4/1997/95, para. 61)

The report states that a new development in Chile has seen the involvement of girls as young as seven years in prostitution and that, in the past five years, many boys as well as girls see prostitution as the only way to survive.

Torture, Special Rapporteur on: (E/CN.4/1997/7, Section III; E/CN.4/1997/7/Add.1, paras. 49–69)

The report notes that the Special Rapporteur (SR) received replies from the government on 25 cases that had been transmitted in 1995 as well as observations on the SR's report of his visit to Chile (E/CN.4/1996/35/Add.2). The government commented on obstacles to the democratic functioning of some of the highest institutions because of laws inherited from the military regime. It noted that the democratic governments of Chile have maintained their opposition to the Amnesty Act. They stated that the Act was unlawful, and regretted that they had been unable to abrogate it as they lacked the necessary parliamentary majority. The government pointed out, however, that legislation in force does not preclude investigation by the courts continuing until the facts have been elucidated and the identity of those responsible determined. The government also noted that, in August 1995 a number of bills were presented to the Senate designed to do away with the institution of appointed senators, to change the composition of the Constitutional Court, to effect changes in the Security Council, and to authorize the President to retire Generals without the need for a proposal by the relevant Commander-in-Chief. However, the Senate rejected these bills. Regarding the Programme of Compensation and Full Health Care for Victims of Human Rights Violations (PRAIS), 13 teams are operating throughout Chile; between 1992 and 1995 the programme assisted 4,197 family groups with members who had been tortured.

The government also provided information in response to alleged irregularities in the proceedings involving three cases of persons tortured and executed during the period of the military government, noting that: two members of the army received prison sentences of 6 years and 10 years and 1 day respectively; a former *carabiniero* (member of the uniformed police) was sentenced to imprisonment for three years and one day; and, the court ordered the general dismissal of proceedings under the terms of the Amnesty Act, a decision that was being appealed to the Supreme Court.

In response to the SR's observations on the situation of minors assigned to punishment cells in the Comunidad Tiempo Joven detention centre for minors, the government stated that work on a special section to replace those cells was to be completed in September 1996. In terms of the SR's observations that article 260 of the Code of Criminal Procedure provides for "arrest on suspicion", and his recommendation that the article be amended, the government reported that in July 1996 the Chamber of Deputies' Constitutional, Legislative and Judicial Committee issued a report advocating the deletion of that provision from the present Code and its replacement by the one contained in the draft of the new Code

of Criminal Procedure. Responding to commentary on the attitude of the police authorities towards torture, the government stated that it shared the SR's view that both the uniformed police (*carabineros*) and the plain-clothes police department (*Investigaciones*) should be brought under the authority of the Minister of the Interior to permit better coordination in preventing and investigating offences. The government also noted that both departments had undertaken a process of weeding out staff who have failed to observe the basic rules of law in performing their duties which, in the case of the *carabineros*, had resulted in a decision to retire a total of 249 members on 1 February 1996. Referring to shortcomings in the system of criminal justice regarding the protection of detainees against torture or ill-treatment by the police, the government stated that many of these shortcomings will be remedied as a result of the reform of the Code of Criminal Procedure, including by inclusion of guarantees of the rights of accused persons to remain silent, the right to be assisted by a lawyer during the initial phases of the investigation, the right to confer daily and in private with a lawyer during detention and the right to have their family immediately informed of their arrest. Proposed reforms also institute oral, public and adversarial proceedings and separate the investigatory functions from the judicial by establishing the Prosecution Service. The reform will also make it possible to conduct more detailed, thorough and specialized police investigations, based on the balanced use of a variety of investigative tools and precluding the possibility of basing the trial essentially on the suspect's confession. The government noted that under the revisions: the maximum period for which suspects may be held in police custody is reduced to 12 hours, after which they are to be referred to the Prosecution Service; that the police are prohibited from questioning detainees without the prior authorization of the Prosecution Service's prosecutor; and that suspects may not be held incommunicado for more than five days, after which they must be allowed to communicate with their lawyer.

Further reforms were undertaken to ensure that the definition of torture as an offence uses the wording contained in the Convention against Torture and that anyone who, being aware of such offences and in a position to prevent them, fails to do so, will be liable to punishment.

The government's responses to the cases transmitted variously indicated that: the complaint had not been substantiated; the death had resulted prior to the police arriving on the scene and was declared accidental; the investigation had turned up no signs of torture or ill-treatment; a court was examining the case for unlawful ill-treatment; administrative responsibility had been established against the officials concerned for failing to carry out their duties with due interest and determination and for abuse of authority and that appropriate sanctions were implemented; the injuries to the plaintiff had been sustained while attempting to escape; and, the injuries had been sustained while the suspect was resisting arrest.

Violence against women, Special Rapporteur on: (E/CN.4/1997/47, Section IV.B, Section V.)

In the section dealing with trafficking in women and forced prostitution, the report refers to "regulationism" — tolerance by the state of what is often understood to be a "necessary evil", by attempting to control prostitution