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Chairperson: Mr. Rivas Posada

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Fifth periodic report of Chile (CCPR/C/CHL/5 and CCPR/C/CHL/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Chile took places at the Committee table.*

2. **Mr. Riveros** (Chile), introducing his country's fifth periodic report, said that further progress had been made since the submission of its fourth periodic report, outlining its achievements in the early years of its return to democracy. For the first time in its history Chile had a woman President — something that had brought profound cultural, constitutional and legal changes in Chilean society and institutions — and the Cabinet was equally split between men and women. Nonetheless, there were still challenges to be overcome.

3. The year 2005 had seen the eighteenth amendment to the Political Constitution. With the elimination of its entrenched authoritarian clauses under that amendment, the appointment of senators for life had been abolished, with the entire Congress being now elected by popular vote; the President of the Republic had regained authority over the armed forces, and had removed the commander-in-chief; and the National Security Council had been deprived of its right to appoint senators and ministers, becoming a purely consultative body.

4. Additionally, with its enhanced powers, Congress could now create investigating committees, and demand explanations from Government ministers, and since domestic law had been aligned with international standards, a treaty could only be derogated from, modified or suspended in the manner provided for by the treaty itself, or in accordance with the general rules of international law. The amendment had also led to the establishment of mechanisms to prevent abuse of constitutional power, and to changes in the law on nationality so that all children born to Chilean parents were automatically Chilean, regardless of their place of birth. (Under the former system, children born to Chilean parents outside the country had, in effect, been stateless.) Finally, the constitutional reform had reduced the term of office of the President from six to

four years, and enshrined the principles of probity and transparency.

5. All those changes had helped to consolidate democracy in Chile and leave behind its dictatorial past. But challenges remained, for example that of changing the electoral system, which, in practice, prevented minorities from being represented in Parliament. The Government was promoting reform intended to change over to a proportional system, in order to make election results more representative. There was also a need for broader constitutional recognition of Chile's indigenous peoples, to which end a draft law was currently being examined in Congress.

6. Improvements had not been restricted to institutions and laws. In the area of individual human rights, legislation on strengthening the right to freedom of speech had been adopted in 2001. In 2003, cinema censorship had been abolished, while in 2005 the offence of contempt had been abolished. Freedom of conscience had been strengthened by a 1999 law allowing any religious belief to obtain juridical personality under public law, and by changes to the law on military service in 2005, with the result that 95 per cent of the military personnel of Chile were now volunteers. With regard to the right to education, the duration of compulsory education, which was free, had been increased from 8 to 12 years. With the elimination of the death penalty from the Penal Code, the right to life had been strengthened.

7. A reform in 1999 had established legal equality between men and women. Sexual harassment had been criminalized in 2005, and the rights of working mothers had been enhanced. There had been a series of changes in the law on families. In the year 2000, rules had been established to make it easier for students who were pregnant or nursing to complete their studies. The new Civil Marriage Act adopted in 2004 legalized divorce in Chile for the first time.

8. In the same year, specialized family courts had been established, and in 2005 the law against family or domestic violence had been amended and strengthened. There had been profound changes in the rights of women, and it was hoped that complete equality between spouses in the disposition of matrimonial property would be enacted very soon. The progressive inclusion of women in the workforce had been

supported by various measures intended to protect them from harm and eliminate discrimination.

9. In the context of the modernization of the system of justice in Chile, the major change during the period covered by the report had been the reform of criminal procedure, involving a range of institutions, rules, procedures and additional conditions fostering the transition from an essentially written and secret inquisitorial criminal system to an open and public accusatory system. Reforms had included amendment of the Constitution; the Public Prosecutor's Office (Organization) Act; the new Code of Criminal Procedure; the Public Defender (Criminal Matters) Act; and amendment of the Courts Organization Code. Major infrastructure reforms had been undertaken in the prison system, starting in the year 2000, with the intention of creating conditions propitious to the rehabilitation of all offenders.

10. Steady progress had been achieved in the implementation of the Indigenous Peoples Act (promulgated in October 1993). The Act recognized indigenous peoples' rights to land and water that had traditionally belonged to them, as well as their right to cultural diversity and identity, to their language, to health and to intercultural education. Chile was advancing in the recognition of itself as a multicultural society. The Government had established the Historical Truth and New Deal Commission, intended to reconstitute the history of the indigenous peoples and put forward a new public policy towards them. The policy would promote culturally sensitive development, including financial support to indigenous communities, study grants for indigenous youth, the creation of new and purely indigenous municipalities and the proposal for granting a special status to Easter Island.

11. In 2006 the Government had launched a debate with the indigenous peoples, in which more than 120 indigenous organizations participated. At the same time, a new public policy had been established for indigenous people living in urban areas.

12. Furthermore, Chile had sought to shake off the negative legacy of the military dictatorship, moving forward in its search for truth, justice and reparation. Since the submission of the fourth periodic report, benefits and monthly pension payments to victims of the violence of the military regime, or their families, had been increased, and the Government was now

granting financial assistance for the return of people who had fled the country. Provision had also been made for erasing the criminal records attached to people by the military regime between 1973 and 1990.

13. In 2003 the National Commission on Political Prisoners and Torture had been established, with the objective of identifying those who had been imprisoned or tortured for political reasons during the dictatorship. In slightly more than one year, the Commission had heard testimony from more than 35,000 people, and as a result of its report, pensions, psychological care and educational and other benefits had been established for the victims.

14. The preparation of its fifth periodic report had enabled Chile to measure its progress and see where it needed to go next. The current Government had an ambitious programme of social protection, involving profound reforms to the country's social security and education systems, intended to bring about greater equality and enhanced human dignity.

15. **The Chairperson** invited the delegation to address the list of issues (CCPR/C/CHL/Q/5).

16. **Mr. Riveros** (Chile), responding to the question relating to the Amnesty Decree-Law of 1978 (question 1), explained that in 1998 the Supreme Court had ceased to uphold judgements handed down by military tribunals that had applied the Amnesty Decree-Law. In another change in judicial practice, disappeared detainees were construed to be victims of permanent kidnapping, and consequently no amnesty or time-bar could be applied. Secondly, he noted that in September 2006, the Inter-American Court of Human Rights had issued a judgement in the case entitled *Almonacid Arellano y otros v. Chile*, which stated, inter alia, that Chile must ensure that the Decree-Law did not continue to impede further investigation of the extrajudicial execution or the identification and appropriate punishment of those responsible.

17. To give full effect to the Inter-American Court ruling and restrict the application of the Amnesty Decree-Law so as to bring it into line with international human rights law in its various manifestations, the Government of Chile had sponsored a parliamentary legislative initiative currently before the Senate, setting forth the grounds for extinction of criminal liability and stipulating, in particular, that such grounds should in no case be applicable to crimes

and single offences constituting crimes against humanity and war crimes.

18. With regard to question 2 on the establishment of the post of independent national defender of human rights, he explained that a Presidential Advisory Commission for the Protection of the Rights of Persons, better known as the Citizen Defence Commission, had been set up. An advisory body to the President of the Republic, its task was to defend and uphold individuals' rights and interests in the face of acts or omissions on the part of public bodies. The remit of the Commission was restricted to bodies under the authority of the central administration, but it did mark the first step towards the creation of a defender of human rights as an autonomous entity within the executive branch, by means of a constitutional amendment giving it permanence and full powers to defend citizens.

19. Additionally, a bill had been submitted by the Government to Congress to set up a national human rights institute, with the status of an autonomous corporation under public law, with legal personality and its own assets; the bill was currently in second reading in the Senate.

20. The main purpose of the new institute would be to promote and protect the human rights of persons living in Chilean territory, as called for by the Constitution and domestic law and by the international treaties and conventions signed and ratified by Chile, and in accordance with international human rights law. In addition, the institute was to propose to the public authorities measures that in its view should be adopted to encourage the promotion and protection of human rights; seek the harmonization of national legislation, regulations and practice with international human rights instruments and principles; and promote their effective implementation.

21. In response to question 3 on the current legal status of former Peruvian President Alberto Fujimori, he said that when Mr. Fujimori had arrived in Chile on 6 November 2005, the Government of Peru had requested his detention for extradition purposes. The request had been made under article VII of the extradition treaty between Chile and Peru and relevant international treaties aimed at combating impunity in crimes against humanity and acts of corruption.

22. The Ministry of Foreign Affairs had immediately transmitted the Peruvian Government's request to the

Supreme Court of Justice, which had appointed Judge Orlando Alvarez Hernández to examine it. Extradition in Chile was a matter ruled exclusively by court decision. The Government did not interfere in extradition proceedings and must abide fully by what the courts decided on the merits of the case. In settling extradition issues, judges must adhere to the international norms governing extradition (bilateral treaty between Chile and Peru) and to domestic rules (former Code of Criminal Procedure, which still applied to extradition for acts committed outside Chile before 16 June 2005). Judges must rule on the premises for granting extradition and the Chilean courts — unlike those of other countries — required the supporting documents to contain a modicum of evidence that the person whose extradition was being sought had committed the crimes being alleged.

23. In response to question 4 concerning the use of anti-terrorism laws against indigenous people protesting or making demands related to the protection of their land rights, he said that Chile had never used the anti-terrorism laws to evade legitimate demands by indigenous communities. Such demands had always been taken up by the democratic Governments of Chile and channelled through proper institutional machinery. One significant example was the protection of the right to land enshrined in the 1993 Indigenous Peoples Act, and the annual budgetary allocation for the expansion of indigenous landholdings.

24. Eight members of the indigenous community had been punished under the law against terrorism since 2001, because of extremely violent situations threatening the rule of law and, consequently, the constitutional guarantees of other Chileans, indigenous or otherwise. The anti-terrorism law had most recently been invoked against members of the indigenous community in 2003, and President Bachelet had now given instructions that it must not be invoked by the Government, and that such acts of violence were to be dealt with under normal criminal law.

25. Guarantees of due process had been fully respected in the judicial proceedings concerned, and the accused had received professional assistance from the Public Criminal Defence System or private counsel, as they wished. That acquittals and release from prison were possible also helped ensure the rule of law for all inhabitants of Chile. Three members of the Mapuche community were currently out on parole.

26. Referring to question 5, he said that the draft law amending the Civil Code provisions relating to marriage in order to give both parties equal responsibility for the administration of property and equal inheritance rights was well on the way to passage in the Senate. Final adoption was expected in April 2007.

27. Regarding discrimination against women in employment (question 6), it should be noted that their participation in the labour market had risen to 38 per cent from 32 per cent in 1990. Legislation had been adopted to help working women: the labour rights of married women were now better protected, men were being encouraged to share more of the family responsibilities with their spouses — a goal, of course, that required a modification of cultural patterns in the country — and equal job opportunities for women were being promoted. The new Administration had in its first year alone established 800 new nurseries for children under two years of age, and more day-care centres had also been set up for two- to six-year-olds. The latest available statistics showed that the pay gap between men and women had declined between 1998 and 2000 from 40 per cent to 35 per cent. Although the reduction of pay disparities was primarily a private-sector responsibility, the Government was addressing the problem by promoting shared family responsibilities and recognizing the various rights of working women.

28. The National Commission on Political Prisoners and Torture (question 7) had, in its report, recognized that reparation to victims of political crimes or torture not only served the individual victim to be compensated but also served important social, historical and preventive functions, and was a way of ensuring that such crimes would never again be committed in the country. All the special human rights commissions created by successive Administrations since 1990 had shared that view. On the recommendation of the National Commission on Political Prisoners and Torture, the Government had proposed legal, monetary, educational and health- and housing-related compensation to individual victims; as well as measures constituting symbolic, collective reparation that were designed to provide moral redress to the victims, restore their personal dignity and allow them to be recognized as victims by the rest of society. The symbolic dimension was very important and was

an area that the soon-to-be-established National Human Rights Institute would address urgently.

29. Regarding alleged incidents of abuse by prison guards (question 8), it should be noted that there were a multiplicity of legal and regulatory bodies operating under the Prison Regulations, the Administrative Statute of the National Prison Service (*Gendarmería*), the Criminal Code and the Code of Criminal Procedure, all of which had a say in the matter. The machinery needed to be strengthened, and the Office of the President was working with the Ministry of Justice to draft legislation establishing a new system for the execution of penalties. That would complement the reform of the prison system and the overhaul of the entire criminal justice system. One key notion in that legislation was to unite the many bodies operating at different levels into a single organ that would carry out its complex work more effectively and also preserve the rights of prison inmates.

30. The expression “without due reason” as used in article 330 of the Code of Military Justice (question 9) meant “without justification”. Military personnel guilty of undue violence received much stiffer penalties under the Code of Military Justice than would be the case under the Criminal Code. Since the Code of Military Justice, however, was out of step with international human rights law and with modern doctrine, its revision was under way. In any case, article 330 would always have to be interpreted in the light of the Constitution’s guarantee of the right to life and physical and mental integrity.

31. As part of its overhaul of the military justice system, the Government intended to restrict military courts to judging only military offences committed by uniformed personnel, which would in fact include *Carabineros* (question 10). Under the proposed revisions, civilians would no longer be judged by military courts, thus safeguarding civilian rights. One important reform, for example, would be to eliminate one particular definition of the crime of sedition for which civilians — including journalists exercising their freedom of expression — had often been prosecuted in the past.

32. In connection with question 11, the Government had no plans to legislate on abortion. However, it had many programmes in place to prevent the circumstances that could lead to abortion. Its policies relating to sex education, support for adolescents,

contraceptive methods and family planning were in fact working well to discourage women from resorting to abortion.

33. **The Chairperson** opened the floor to questions from members of the Committee.

34. **Sir Nigel Rodley** observed that although the report — long overdue but welcome — had focused more on legal and institutional issues than on practical problems, the written responses to the list of issues had, though laconic, filled that gap to a certain extent. It would also have helped if the 1999 core document had been updated, especially on constitutional issues. There had been many positive developments in Chile: the National Security Council had been made a civilian body, senators were no longer appointed for life, the Constitutional Court was now more representative, the heads of the Armed Forces and *Carabineros* could be dismissed, inroads had been made into the applicability of the notorious 1978 Amnesty Decree-Law, the death penalty had been abolished, and the criminal law had been revised, especially with regard to the role of judges.

35. On the question of amnesty and the Supreme Court's jurisprudence on the matter, he took it that the legislation under consideration would specifically exclude the application of the Amnesty Decree-Law to extrajudicial executions, abductions and torture and would stipulate that the Geneva Convention would apply to any such crimes committed between 1973 and 1978. Since in Chile treaties were part of the supreme law of the land as were Supreme Court decisions, he wondered if these principles contained in those Conventions could not already be considered part of Chilean law while the proposed legislation was being debated. He also would like to know how long it would take for a court of the first instance to reach a decision on the Fujimori extradition, and whether the decision would be based on article 8 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as on extradition law.

36. The establishment of the National Commission on Political Prisoners and Torture was welcome, after 31 years, but it was an unfortunate omission in all those years not to have extended the mandate of the National Commission on Truth and Reconciliation to such cases. Any compensation made by the Government to victims should be fair and adequate, especially to victims of torture. Yet the amounts of

compensation cited in the written responses seemed austere, and almost symbolic. A State could not commit such crimes and then pay low compensation because it strained the State budget, when the purpose was to deter such conduct in the future. He would like clarification of the quantification process that had been followed and what was actually provided by the national pension schemes that had been used as comparators.

37. He welcomed the detailed information given on the punishment of abuse by prison guards. He wondered, however, if the number of cases in which any sanction had been applied was so small because the allegations were hard to prove; and if compensation had not been awarded simply because no victims had applied for it. In the case of the prison guard sentenced to 61 days' imprisonment and suspension, it would be interesting to know how serious the crime had been, at what judicial level the decision had been taken and whether there was a possibility of appeal.

38. Question 9 had been prompted by the logical contradiction in the notion of unnecessary violence that could be committed without due reason. The Committee's main concern was the normative effect of article 330 of the Code of Military Justice, and it was unclear from the response whether self-defence or the defence of others against a threat to life or limb constituted the only "due reason" for the use of lethal force, which was the usual human rights standard.

39. He was pleased to hear about the reforms aimed at separating military law from the realm of civilian law, and to ensure that serious criminality such as extrajudicial killing, torture or abduction committed by persons subject to military law would no longer be judged under military law. He would like to know the prospects for the adoption of the legislation in question and what difficulties it was facing.

40. The delegation had been candid about the State party's intention not to revise the legislation on abortion, but since it currently put a lower premium on the life of the mother than on that of the foetus, it was possibly in violation of article 6 and the right to life. The law did provide for family planning and for confidentiality but it banned abortion, and it was not clear if under that law there had been any prosecutions for abortion in the past two or three years.

41. **Mr. Kälin**, while regretting that more factual information was not provided in the report, welcomed

the reforms taking place in Chile, including the fact that the proposed National Human Rights Institute would be an autonomous corporation and a separate legal entity under public law. However, he asked whether the delegation could provide more information on how that Institute was going to comply with the Paris Principles which set out the standards for independent national human rights institutions.

42. Referring to the anti-terrorism law and its application to indigenous people, he wondered how acts of violence committed in the context of land disputes could amount to acts of terrorism. In that connection, he asked how terrorism was defined under that law and whether that definition had become more restrictive and, if so, what impact that could have on people who had been sentenced under the broader definition of terrorism.

43. He asked whether the delegation could explain how due process guarantees were fully respected, since the anti-terrorism law had severely curtailed due process guarantees by, for example, allowing testimony to be given by faceless witnesses, proceedings to be kept confidential for long periods of time and detainees to be held for extended periods before trial. Such limitations were at odds with article 14 of the Covenant, especially in cases that did not fit the conventional definition of terrorism. Finally, he asked what changes had resulted from the revised law and what procedural limitations had been incorporated into that law.

44. **Ms. Chanet** welcomed the positive developments that had occurred in Chile, including the fact that the minimum age of marriage had been raised to 16 years for both boys and girls and sexual harassment had been recognized as a crime in the Penal Code. However, she asked for concrete examples to corroborate the assertion in the State party's responses to the list of issues that mechanisms had been established to combat harassment. She also wondered how Chile could maintain its law banning abortions, in contravention of article 6 of the Covenant, especially considering that such legislation led to discrimination and even death in some cases. She could not understand why the law forced health officials to denounce violators yet at the same time maintain professional secrecy, a contradiction that was acknowledged in the State party's report.

45. With regard to the matrimonial reform law, she was dismayed that it had been held up in the Senate for 10 years. What institutional factors made it possible for the Senate, a lower house, to block the proposed legislation? Finally, she wished to know how the inter-American system had reacted.

46. Concerning the representation of women, she said that the legal burden of proof should be reversed in cases of discrimination at the workplace, especially wage discrimination, forcing employers to prove the absence of any alleged discrimination. She asked whether the Labour Code included a stipulation for such reversal of the burden of proof.

47. **Mr. O'Flaherty** commended the delegation for providing its responses in writing in all official languages and hoped that other States would adopt the same practice. With regard to the enjoyment of the rights under the Covenant for certain minorities in the State party, he said that the Committee had received many allegations concerning the incarceration of the mentally disabled, and their loss of entitlement. It was alleged that, under a 2004 law, if a person was declared mentally disabled, a parent or close family member might be appointed in perpetuity as guardian of that person. Other allegations concerned the lack of procedural safeguards for the admission of people into psychiatric institutions without their consent. In both situations, the decision was final and not subject to review.

48. There were detailed allegations of abuse and prejudice against sexual minorities, including gays, lesbians, bisexual and transgender people, and of police intimidation and arrests under the guise of the Penal Code provisions on good morals and good customs, even though such a crime was no longer in the statute books. Many NGOs had also reported allegations concerning discrimination against minorities in the public and private sectors, including access to schools and the health system. He asked whether the delegation could respond to those allegations. He also wanted to know whether there were any oversight mechanisms and public education programmes to combat widespread prejudice and abuse by police, teachers, doctors and others. He would appreciate more information on the proposed equality legislation, and on the categories of discrimination being contemplated in it. Would disability and sexual discrimination be included as separate categories of discrimination?

49. **Mr. Amor** wanted to know whether there were any protection mechanisms for mentally disabled persons, especially in cases of permanent internment. He would be interested in the delegation's response to the allegation that the mentally disabled were poorly treated and cared for and that, in some cases, they could even be operated upon in order to achieve certain desired results. He enquired about the cultural, social and political basis of the prohibition on abortion, especially in the light of Chile's considerable progress in eliminating religious and social prejudices.

50. *The meeting was suspended at 5 p.m. and resumed at 5.30 p.m.*

51. **Mr. Quintana** (Chile) said that in 1998 the Supreme Court had begun to stop upholding judgements handed down by military tribunals that had applied the Amnesty Decree-Law. The Supreme Court had also changed its practice concerning its interpretation of the situation of disappeared detainees, who were currently considered victims of kidnapping rather than of homicide. Furthermore, the Supreme Court had found in two landmark cases involving crimes against humanity in January 2007 that the amnesty laws in force between 1973 and 1978 could not be invoked and that no time-bar should apply. The appropriate procedure under the law in such cases was the application of the Geneva Conventions.

52. **Mr. Tagle** (Chile) said, with respect to Alberto Fujimori's current legal status, that as Chile applied a passive extradition process, the State had no role in the extradition proceedings or in the final decision. Extradition cases were determined exclusively by the courts. The ruling on an extradition request must come from the investigating magistrate of the Supreme Court and, on appeal, from the Criminal Chamber of the Supreme Court. The investigation stage of the proceedings had been closed in November 2006 and judgement in first instance was still pending. He could not provide a specific date for a decision or what the ruling might be, as the judiciary was an independent branch of the Government. The courts were acting, however, in accordance with the international norms governing extradition, including the bilateral treaty between Chile and Peru.

53. **Mr. Cristóbal Gonzalez** (Chile), responding to the request for greater detail on the judicial proceedings against prison guards for unlawful coercion of or causing bodily injury to prisoners,

particularly the case resulting in a sentence of 61 days' imprisonment and suspension, said that it involved physical abuse without causing injury and the threat of the use of a weapon. It had also been pointed out that no financial compensation had been awarded to date to the victim of abuse. That was not owing to any flaws in existing institutional mechanisms, as under Chilean law the victim in a criminal case was entitled to submit a request for compensation under the Civil Code through the judicial channels. Investigations were ongoing and no decision had yet been made on the granting of financial compensation.

54. **Ms. Soto** (Chile) said that the Anti-Terrorist Act dated back to 1994 and had covered ordinary crimes such as arson as well as the offence of terrorizing the population. The indigenous people in question had been tried for terrorist arson. Changes had been made to the Constitution in 1991 in that respect, involving the categorization of various offences. Concerning the changes in procedural guarantees, amendments to the law had been made with respect to amnesty and pretrial detention. In 1994, procedural guarantees had been laid down for all offences, including terrorism-related offences.

55. **Mr. Quintana** (Chile) said, with regard to the confidentiality of witness testimony, that anti-terrorism legislation did allow for witnesses to make statements without having to reveal their identity. Thorough consideration had been given to the possible implications for due process. Furthermore, it should be noted that the Anti-Terrorism Act had not been invoked for several years, and the provision permitting anonymous witness testimony was very rarely applied. The procedures for secret proceedings were laid out in the Code of Criminal Procedure, and there were a number of guarantees to ensure that the parties were not harmed in any way. The unjustified granting of such confidentiality would be considered a breach of the duties of the judge and would render the case in question void.

56. **Mr. Rendón** (Chile) said that of the some 60,000 marriages entered into each year in Chile, half were under a regime by which the husband administered the couple's assets. Women, however, were entitled to own and administer the assets acquired from their work. Although a new matrimonial property regime based on the principle of equality had been introduced, it had not been widely adopted because it required the couple to state explicitly that it wished to marry under it.

Nevertheless, women had the right to change the regime after the marriage. The Chilean Government was giving constant consideration to the matter as it evolved.

57. **Mr. Salinas** (Chile) said, with respect to reparation to victims identified by the National Commission on Political Prisoners and Torture, that Chile had extended broad-ranging compensation to the victims. State policy on compensation encompassed not only financial benefits but also physical and psychological care, housing, education and symbolic reparation. Once the victims of torture and political repression were identified, they were provided with compensation in the amount of some \$219 per month for life. The sum could be somewhat higher, depending on the age of the victim. The policy on compensation was in keeping with international standards and clearly marked progress made in Chile since 1990.

58. **Ms. Brimaud** (Chile) said that the Chilean reparations policy had been praised by the international community, as was shown by the judgement of the Inter-American Court of Human Rights in the case of *Almonacid Arellano y otros v. Chile*, where reference was made to the policy. Furthermore, a national human rights institute was currently being established to handle complaints. Mention should also be made of the planned symbolic gestures of recognition and reconciliation and the introduction of a human rights award.

59. **Mr. Quintana** (Chile) said that while the amount of the benefits might seem austere, it should be noted that those benefits were payable for life. A large number of persons received such benefits. Furthermore, the benefits could go hand in hand with other benefits under Chile's general social benefits system. Therefore, compensation was in line with international standards.

60. **Mr. González** (Chile) said that his Government was fully aware of the need for reform of the Code of Military Justice and the military justice system in general. That was made clear by the Inter-American Court of Human Rights judgement in the case of *Palamara Iribarne v. Chile*, calling for such reform. The Government was committed to submitting a bill in 2007 to change the powers of the military tribunals, which would no longer be responsible for dealing with cases involving civilians. Only members of the military could be tried by the military tribunals. The

Government had also undertaken numerous reforms of the justice system with respect to labour, family law, criminal procedure and other aspects.

61. **Mr. Quintana** (Chile) said, in response to the question raised about the meaning of "due reason" in cases of unnecessary violence, that the matter involved standards and norms which were being reviewed. The phrase related to self-defence or the defence of third parties, or to carrying out a duty as provided for in the Code of Military Justice.

62. **Mr. Rendón** (Chile) said that his delegation did not have the figure on the number of cases tried for breaches of the abortion law but would provide them as soon as possible. Concerning the refusal to establish exceptions where abortions were permitted, that provision related to the protection granted to the unborn, which was covered under the Constitution. Concerning the obligation to report any breach of the law, that obligation would never entail withholding necessary medical care in cases of complications following an abortion or making a prior confession before receiving care.

63. Sexual harassment was punishable under the law. If such an offence was committed in the public sector, the law required an investigation into the matter, which could lead to dismissal. Private-sector employers were required to adopt protection measures when a complaint was lodged. If an employer failed to do so or if the protection was insufficient, the victim could then appeal to the labour courts. Since the new labour law was introduced, more than 250 complaints had been lodged, the vast majority by women. The law provided for moral damages in the event that the employer was responsible for the sexual harassment. Chile currently had a women President. One of the first measures taken under her presidency was to introduce a Code of Good Labour Practices and Non-Discrimination in the Public Sector to ensure equal treatment for men and women. While his delegation did not have figures on the number of women in high-level positions, it would be able to provide them in future.

64. **Ms. Soto** (Chile) said that the issue of disabilities was covered under the Act on Disability. In general, cases involving mental disabilities were decided by the courts. In exceptional cases, they were handled by administrative means. The person in question must undergo a diagnosis, and it must be ascertained that treatment was required. The maximum period of

administrative internment of the person was 62 hours. If the diagnosis did not occur during that period, then the individual in question must be released. Under a resolution by the Ministry of Health, any complaints of ill treatment or abuse were heard by a national commission for the protection of persons with mental disabilities. Furthermore, a bill on the equalization of opportunities for persons with disabilities was under consideration. The bill provided for the protection of the rights of persons with mental disabilities, who could not be victims of any treatment against their will. Lastly, her Government intended to adhere to the Convention on the Rights of Persons with Disabilities.

The meeting rose at 6.05 p.m.