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Excellency,

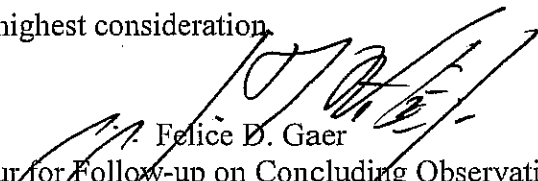
In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the fifth periodic report of Chile (CAT/C/CHL/5) by this Committee, at its 42nd session, held from 27 April to 15 May 2009. At the end of that session, the Committee's Concluding Observations (CAT/C/CHL/CO/5) were transmitted to your Permanent Mission. In paragraph 28 of those Concluding Observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year (by May 2010) further information regarding areas of particular concern identified by the Committee in paragraphs 12 to 14, 18 and 25 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Concluding Observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Chile on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Excellency, the assurances of my highest consideration.


Felice D. Gaer
Rapporteur for Follow-up on Concluding Observations
Committee against Torture

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/CHL/CO/5)**

CHILE

(...)

C. Principal subjects concerns and recommendations

(...)

Amnesty Decree-Law No. 2.191

12. The Committee notes that the Chilean courts, and in particular the Supreme Court, are handing down judgements in which they rule that the Amnesty Decree-Law (under which people who committed human rights violations between 11 September 1973 and 10 March 1978 cannot be punished) is inapplicable, citing international human rights instruments as the legal basis for that finding. Nonetheless, the Committee feels that, in line with the ruling of the Inter-American Court of Human Rights in the case of *Almonacid Arellanos y otros* of 26 September 2006, the fact that this decree-law remains in force leaves the application of the amnesty up to the judgement of the domestic courts. The Committee has learned of recent Supreme Court decisions that appear to take the existence of that decree-law into account, particularly in reducing the applicable penalties for serious crimes committed during the dictatorship (art. 2).

The Committee recommends that, in keeping with its earlier recommendations, the State party abrogate the Amnesty Decree-Law. The Committee draws the State party's attention to paragraph 5 of its general comment No. 2 on the implementation of article 2 of the Convention by States parties, wherein it considers that amnesties or other impediments which preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment violate the principle of non-derogability. The Committee also recommends that all necessary steps be taken to ensure that cases of torture and other cruel, inhuman or degrading treatment or punishment be thoroughly and promptly investigated in an impartial manner, that the culprits be subsequently tried and punished, and that steps be taken to compensate victims in accordance with the Convention.

Allegations of torture

13. The Committee is concerned about continuing allegations that serious crimes have been committed by on-duty police officers and regrets that efforts to publicize

such acts are subject to legal restrictions, which are a contributing factor to the failure to punish such crimes (arts. 2 and 12).

The Committee recommends that the State party introduce legislative reforms relating to supervision of the police force as soon as possible with a view to ensuring that no action on the part of the police force that is contrary to the Convention goes unpunished and that the investigations of such acts are effective and transparent. The State party should reinforce educational programmes in order to ensure that all law enforcement personnel are fully aware of the provisions of the Convention.

The Committee also recommends that the State party continue to expedite the measures required for the creation of the Ministry of Public Security, which would oversee the Carabineros and the Investigative Police Force.

Reform of military justice

14. The Committee is concerned about the delay in the State party's adoption of the reform of the Code of Military Justice, which the Committee has repeatedly recommended (art. 2).

The Committee recommends that the State party expedite the adoption of reforms to the Code of Military Justice which will limit the material and personal jurisdiction of military courts. The Committee reaffirms its recommendation that the State party expurgate the principle of due obedience from the Code of Military Justice.

(...)

Programme of Compensation and Comprehensive Health Care

18. The Committee takes note of the fact that, in the State party, torture victims have access to the Programme of Compensation and Comprehensive Health Care (PRAIS) system and is pleased that this programme has been extended to cover the entire country. The Committee also welcomes the programme's cooperation with such organizations as the Centro de Salud Mental y Derechos Humanos (Centre for Mental Health and Human Rights) (CINTRAS), the Corporación de Defensa de los Derechos del Pueblo (Committee for the Defence of the People's Rights) (CODEPU), the Instituto Latinoamericano de Salud Mental y Derechos Humanos (Latin American Mental Health and Human Rights Institute) (ILAS) and the Fundación de Ayuda Social de las Iglesias Cristianas (Christian Churches Social Aid Foundation) (FASIC). It is, however, concerned that victims of torture living outside the country do not have the benefit of this programme (arts. 14 and 16).

The Committee recommends that the State party take into consideration the obligation to ensure redress for all victims of torture and that it consider concluding cooperation agreements with countries where they reside so that they may have access to the kind of medical treatment required by victims of torture. The Committee further urges the State party to take steps to ensure the necessary funding so that each team from PRAIS or another organization can give effective care to all those entitled to it. The Committee urges the State party to incorporate a gender policy encompassing training and awareness-raising for the officials responsible

for dealing with the cases of victims of assault or sexual violence. The Committee recommends that the State party increase its efforts in regard to reparation, compensation and rehabilitation so as to ensure fair and appropriate reparation for all victims of torture.

(...)

Reparation

25. The Committee takes note of the information provided to it concerning the compensation paid by the National Commission on Political Prisoners and Torture to persons recognized as having been victims of torture during the dictatorship. The Committee is, however, concerned that not all the victims have enjoyed the right to fair and adequate reparation. The Committee considers that the fact that some victims do not reside in the State party should not constitute an impediment to their access to reparation (art. 14).

The Committee reaffirms the State party's obligation to ensure that all victims of acts of torture have the right to fair and adequate reparation. The State party should ensure that all persons who were victims of acts of torture during the dictatorship, including those not currently in the State party, can have access to adequate reparation commensurate with the gravity of the crime committed against them.

(...)

28. The Committee requests the State party to inform it within one year of the steps taken in pursuance of the recommendations contained in paragraphs 12-14, 18 and 25.

(...)
