SPEECH BY HIS EXCELLENCY PRESIDENT OF THE REPUBLIC, PATRICIO AYLWIN AZOCAR, WHEN ANNOUNCING TO THE PUBLIC THE REPORT OF COMISIÓN DE VERDAD Y RECONCILIACIÓN

Compatriots:

Tonight, I speak to you to address a sore subject that still divides Chileans: that of the human rights violations committed in the last years.

Upon assuming power, I said that this is an open wound in the national spirit, that we can only heal if we tried to reconcile on the foundations of truth and justice.

With this purpose, we formed Comisión Nacional de Verdad y Reconciliación[1], integrated by people of recognized prestige and moral authority in the country, so, after receiving, obtaining and analysing all the records they were able to, they could issue, in good conscience, a Report with the most serious human rights violations committed in the country between 11th of September 1973 and 11th of March 1990. We expressly specify that, for these purposes, serious violations would be understood as "the situations of detainees victims of disappearances, executions and torture resulting in death, where moral responsibility of the State is compromised by acts of its agents or people at its service, as well as kidnappings and attacks on lives committed by individuals on political pretexts".

After nine months of hard work, the Commission issued such Report - unanimously agreed by its members - that was publicly delivered to me on the 8th of February. Complying with the announced, today I inform the country, for which the delivering of the entire text has been made to the highest public, social, and moral authorities of the Nation and the media.

After carefully reading the Report, I believe my duty is to reiterate in this opportunity, the recognition that the members of the Commission and their collaborators deserve, for the self-denial, public spirit, efficiency, responsibility and objectivity with which they accomplished their endeavour. I think their valuable contribution earns the gratitude of all Chileans.

[1] In English, National Commission of Truth and Reconciliation. It was a Chilean organization created by President Aylwin with the purpose of contributing to the general clarification of serious human rights violations committed during the period of dictatorship in the country (1973 -1990).

I.- WHAT DOES THE REPORT SAY?

1st.- Record of Facts

In its first 1094 pages, after defining concepts and describing the historical-political framework and the institutional legal framework in which the events occurred, it relates in chronological order all the cases in which the Commission formed a belief that a violation of human rights was committed resulting in death or disappearance, individualising victims and indicating the background and circumstances in which the event occurred.

Starting from the concept that "there are certain values of humanity that must be respected not only by the State, but by all political actors" and, according with the decree created by the Commission, the Report qualifies the human rights violations as "not only certain acts committed by State agents, but also others carried out by individuals acting on political pretexts".

The record divides the period into three stages: first, the one between 11th of September and 31st of December 1973, in which there were some confrontations, massive arrests in almost the whole country, executions of many political prisoners and the first disappearances; then, the DINA period, until August 1977, in which a systematic action was carried out to exterminate those who that agency attributed more political dangerousness and the biggest number of disappearances of persons occurred, and, finally, the stage in which DINA[2] was replaced by C.N.I.[3], in which, after a span of relative appeasement, numerous violent actions took place with fatal results, whether in attacks committed by armed or terrorist groups, in operatives aimed at combating them, or in the protests that had place from 1983.

In every period, the nature and characteristics of the repressive agencies, the preferred procedures used by them, the places of custody, the torture and execution methods of the victims are indicated. The attacks on human rights committed by individuals on political pretexts and the actions of political violence with fatal results are recounted too. The record also outlines the attitude taken towards those events by the different actors of civil society: political, social and spiritual actors, and mass media.

The toll of the entire period shows 2279 victims, 164 of which are considered "victims of political violence" by the Commission, and 2115 are classified as "victims of human rights violation".

[2] In English, National Intelligence Directorate was the secret police during Pinochet's dictatorship.
[3] In English, National Information Centre was the political police and intelligence agency during the dictatorship, successor of DINA.

The latter, at the same time, can be sorted in:

a) Killed by State agents or people at its service:
   - By virtue of Courts Martial 59
   - Due to excess of repression during protests 93
   - In executions alleging *ley de fuga*[4] 101
   - In other executions and killed under torture 815

Subtotal 1068

b) Detained by State agents and disappeared: 957
c) Killed by attacks committed by individuals on political pretexts: 90

Total 2115

The Report specifies that the Commission knew of other 641 cases, that are individualised, of which it was not possible to reach a conclusion and considers necessary further research.

The Commission states that faced with these facts, "The Judicial power od State did not react with enough energy" (p.126), which produced "to some important or involuntary extent, the worsening of the process of systematic violations of human rights, in both the immediate, by failing to give protection to detainees in the reported cases, and because it gave repressive agents a growing certainty of impunity for their crimes" (p.128).

2nd. – Recommendations

In the next 74 pages (from 1096 to 1168) of the Report, the Commission fulfils the assignment done in the decree that created it, about "recommending the reparation and claiming measures created by justice" and "the legal and administrative measures that, in its opinion, must be adopted to impede or prevent" new human rights violations.

A.-Reparation to victims

After expressing that "the disappearance or death of a loved one are irreparable losses", so "it is not possible to establish a correlation between the pain, the impotence and the hope of the victims with these measures" that it suggests, the Report indicates that "moral and material reparation seem to be an absolutely necessary task for the transition to a fullest democracy understanding reparation as "a set of acts that expresses the appreciation and responsibility that correspond to the State, in the events and circumstances that are the subject" of the Report. It specifies that "the reparation has to convene all of Chilean society. It must be a process oriented to the recognition of the facts according to the truth, to the moral dignification of the victims and to the achievement of a better quality of life for the most directly affected. The process of

[4] In English, "law for escapes" was a law that justified killing a prisoner for attempting to escape.

reparation involves the courage to face the truth and the implementation of justice; requires the generosity to recognize the wrongs, and attitudes of forgiveness to reach the reunion between all Chileans" (p. 1096).

In the area of moral reparation, it proposes "to publicly uphold the good name of the victims" through acts suggested for illustrative purposes. It also proposes to establish a special procedure of declaration of death for disappeared detainees.

The recommendations regarding the social wellbeing tend "to repair the moral and property damage that affects the direct relatives of the victims", for which proposes, among other things, to establish by law "a single reparation pension" and measures meant to provide those relatives a specialised healthcare, ways of reparation in the educational level and in regard to housing issues, forgiveness of certain debts, and exemption of compulsory military service to the children of victims.

In this same order of affairs, the Report proposes the creation of an autonomous Public Law Foundation, led by a higher level and prestige Council, to continue with the tasks of "trying to determine the whereabouts of the victims" of disappearance, dictate about the cases of possible victims for which the Commission did not reach a conclusion, centralise and keep the files and records of the human rights violations, provide legal advice and social assistance to the relatives of the victims, and other responsibilities assigned to it by law.

Facing the serious problem of "determining the whereabouts of the victims" in the cases of "disappeared detainees" and "those executed without returning the mortal remains to their relatives", it proposes "to penalise all concealment of this kind of information" and, at the same time, "guaranteeing discretion and hold harmless for their eventual participation to those who provide this data" (p. 1161).

B.- Prevention of potential violations

After indicating that "there was no national consciousness in Chile strong enough, at the time when this violations were committed, about the imperative duty of respecting human rights", the Report formulates numerous suggestions to improve the national legislation in this area, to enhance the Judiciary with the aim of effectively fulfilling its role as guarantor of essential rights of people, to achieve the full consciousness of the value of human rights in the Armed, Order and Security Forces and the consequent commitment of respecting them in the exercise of their functions, to create an institution whose mission shall be the protection of human rights and to try to consolidate, starting on the educational system and in all areas of social life, a culture that is truly respectful of human rights.

3rd.- Victims

Finally, in a second volume of 635 pages, the Report contains a brief biographical sketch, by alphabetical order, of each of the 2279 people for which it was concluded that they died or were disappeared as victims of a human rights violation or as victims of political violence, including 132 members of the Armed, Order and Security Forces.

Here ends the summary of the Report. I hope you read it and meditate. I invite you to.

II.- NECESSARY REFLECTIONS

Now, allow me to share with you some thoughts that hit my conscience as a human being, a Chilean and the President of the Republic, as a result of reading the Report and the exchange of opinions that it has had in its regard with people representing various sectors of our Homeland.

1st.- The subject of truth

The rule of truth is the foundation of every coexistence. This is valid in the multiple levels of social life, from the home to the universal community; it applies both to family relationships, to relations within Nations, and even between these.

Where truth is not respected, trust between people breaks; doubt and insults arise and, therefore, hatred and the temptation of violence do too. Falsehood is the prelude of violence and is incompatible with peace.

In this subject of human rights violations in our country, truth was hidden for a long time. While some exposed it, others -that knew- denied it, and those who should have investigated, did not. This explains why a lot of people, maybe the majority, did not believe it. And this discrepancy was a new factor of division and obnoxiousness between Chileans.

The Report that I present to the public today clarifies the truth. For the own record of the Report and the quality of its authors -several of which were supporters and contributors of the past regime-, that truth must be accepted by everyone. No one, in good faith, could disown it.

I am not saying that it is an “official” truth. The State has no right of “imposing” a truth. But, convinced of it, I call on all my compatriots to handle it and act accordingly. Shared by everyone, that truth, as cruel and painful as it may be, will remove a cause for dispute and division between Chileans.

The recognition of this truth is independent from the judgment every person has about the political events of the time, nor about the legitimacy of 11 September 1973. That will be judged

by history; but no criteria on the subject erase the fact that the human rights violations described in the Report were committed. As it states, "the situation until 11 September 1973 and its consequences, objectively risked human rights and made its violations more probable, but in no case justified them" (p.24).

Nor can it be claimed, to deny or disregard this truth, an alleged state of "internal war" that supposedly existed, nor the need of protecting the Homeland from terrorism. We all know -and the Report establishes it- that the Armed and Order Forces took total control of the country very quickly, at most in a few days. On the other hand, war also has its own laws. Nothing justifies torturing and executing prisoners, nor disappearing their remains.

2nd. - The subject of forgiveness and reconciliation.

Several compatriots think that it is time to put a "full stop" to this matter. For the good of Chile, we must look into the future that unites us more than the past that divides us. Much is what we need to do to build a truly democratic society, promote development and achieve social justice, so we can't wear ourselves out in our efforts to scrutinise irremediable wounds. And this reminds us of the words of His Holiness Juan Pablo II in his visit: "Chile has a vocation of understanding and not confrontation. No progress can be made deepening the divisions. It is time for forgiveness and reconciliation".

Who could not share these desires? To achieve them, nonetheless, we need to start by pointing out who are the offended called to forgive and who are the offenders that must be forgiven. I can't forgive for another. Forgiveness cannot be imposed by decree. Forgiveness needs repentance from one part and generosity from the other.

When State agents were the ones that caused so much suffering, and the State competent bodies were unable or did not know how to avoid or punish it, and neither was there a much-needed social reaction to impede it, the State and the entire society are responsible, whether for action or omission. It is the Chilean society that is in debt with the victims of human rights violations.

That is why the suggestions about moral and material reparation formulated by the Report are shared by all sectors.

This is why I dare, in my capacity as President of the Republic, to assume the representation of the entire Nation to, on its behalf, apologise to the victims' families. For this reason, I also solemnly call on the Armed and Order Forces, and all those who had participated in the excesses committed, to make gestures of recognition of the pain caused and to collaborate to lessen it.

The people of Chile have always loved and admired its Armed and Order Institutions. They identify themselves with the glories of the Homeland, with the manly spirit of Chileans and with the selfless actions in daily life or facing major emergencies. The desire for reconciliation,

in a truly united Chile, demands the removal of obstacles that still affect these feelings. We must all contribute to that.

I have said on more than one occasion that my biggest desire as a president is to achieve national unity in democracy. It demands a great effort of each and every one, to put in the place of others and try to understand them, with humility to acknowledge our own faults and limitations and generosity to forgive those of others.

3rd.- The subject of justice

Justice is the greatest social virtue of all, irreplaceable basis of peace.

We know that, due to limitations proper to the human condition, perfect justice is generally an asset unachievable in this world. However, it does not prevent that we always desire for the greater possible justice.

Justice is not vengeance; on the contrary, it excludes it. A crime can't be punished nor repaired by committing an equivalent. Nobody has the right to cause damage to others, much less to attempt on the lives of others, under the pretext of justice. Whoever does it also become a criminal against human rights and deserves the greatest social condemnation. Admitting private revenge is replacing law with violence, in which law of force prevails over reason and justice.

On this subject of human rights violations, the clarification and acceptance of truth, as emerges from the Report, is already an important part of the fulfilment of justice towards the victims. Acts of justice, moral claim of the dignity of victims, and the reparations to their families that the Report proposes are important too.

But it is not enough. Justice also demands the clarification of the whereabouts of disappeared persons and the determination of personal responsibilities.

As to the first, the truth established in the Report is incomplete, given that in the majority of cases of disappeared detainees and executed without returning the remains to their families, the Commission did not have the means to find their whereabouts.

In regards to the determination of responsibilities, it is a duty that, within a Rule of Law, corresponds to Courts of Justice, in conformity to the legal system and the guarantees of due process. Comisión de Verdad y Reconciliación could not go into this aspect, because the decree itself that created it denied this faculty by reason of clear constitutional precepts.
In either case, the Commission has sent the corresponding data to the corresponding court. I hope that these properly fulfil their function and exhaust the investigations, to which the current amnesty law cannot -in my opinion- be an obstacle.

4th. - Terrorism and violence

The criteria set out should not be interpreted by anyone as signs of tolerance or weakness in the fight against terrorism and violence of extremist sectors.

It is the decision of my government to combat terrorism and every form of violence with the utmost energy, whoever it comes from. What is important is to find effective mechanisms to defeat and end them. The experience of other countries shows that the paths of law are more effective than the mere armed confrontation. We are reluctant to accept that, in order to combat terrorism, reprehensible among other reasons because it violates human rights, the use of methods that engage in analogous violations is indispensable, because such methods, morally unacceptable, help in practice to feed the spiral of violence.

III. DECISIONS

In presence of the Report I have reviewed, considering the preceding reflections and in order to address the problems derived from the human rights violations with the greatest responsibility, efficiency and promptness, I believe it is necessary to take the measures I will enunciate:

1st.- I fervently call on all my compatriots to accept the Truth exposed in the Report and to adjust their conduct to that acknowledgment;

2nd. - Welcoming the suggestion of the Report, I publicly and solemnly claim the personal dignity of the victims concerning their possible denigration for crime accusations that were never proved and of which they never had the opportunity nor appropriate means to defend themselves.

3rd.- Over the course of the current month, the Government will present to the National Congress a draft law to realise the propositions of the Report regarding a single reparation pension to the direct relatives of the victims, special procedure of declaration of death of disappeared detainees, social benefits and the creation of a public law institution that takes care of the tasks the Report states;

4th.- Today I have sent the Supreme Court an official letter in which I attach the Report text and I request that, in exercise of its powers, it instructs the corresponding courts so they activate with the utmost diligence the currently pending proceedings about human rights violations and those that need to be prosecuted on the occasion of the records submitted by Comisión de Verdad y Reconciliación, making them present that in my concept, the current amnesty, that the government respects, cannot be an obstacle to performing the judicial investigation nor determining responsibilities, especially in the disappeared detainees cases.

5th. - The government will ask through the Minister of Justice and under article 26 bis of the Code of Criminal Procedure, the intervention of the Public Prosecutor's Office at first instance whenever he deems necessary;

6th. - I have personally asked the Commanders-in-chief of the Armed Forces and the Director General of Carabineros for the cooperation of their institutions to establish the whereabouts of disappeared detainees and of those executed whose remains have not been returned to their families;

7th. - The government will give special instructions to the Order and Public Security Services so they provide the most diligent cooperation to the Courts of Justice for the success of the investigations in the mentioned cases;

8th. - A draft law will soon be sent to the National Congress, proposed by the Chilean Chapter of the Ombudsman and that the Government has endorsed, to create the Public Advocate institution, which will be fundamentally responsible of safeguarding respect and full observance of human rights; and

9th. - Finally, the Ministry of Justice will constitute as soon as possible a work team to prepare the necessary draft laws to introduce in our legislation the reforms that Comisión de Verdad y Reconciliación suggests for the best protection of human rights.

Regardless of the foregoing, I believe it is appropriate to announce, coinciding with some of the Report's suggestions, that the government has the necessary draft laws prepared to perfect and modernise the administration of justice. This being a subject where there is a very high national consensus, it is my purpose to rapidly seek the necessary agreements so that this judicial reform can be presented shortly on terms that facilitate its debate and parliamentary approval in the shortest period.

IV. I ASK CHILEANS

At the end of this briefing, I want to beg all my compatriots to strive for assuming this truth with integrity and responsibility. We must be able to draw lessons from the experience so something similar NEVER AGAIN happens in Chile. This is everyone's task, from which nobody can be excluded.

If the pain, the dread and the righteous indignation move us to hatred and violence, we should soon fall into the same. It would be to resume the fratricidal struggle, destroy our re-emerging democracy and give up the desire for peace we all harbour.

All Chileans can rest assured that the government will fulfil its duty, consistent with the moral principles that inspire it, with no other aim than justice, reconciliation and the common good of the Homeland.

But this is not only a task of the government. It is also of the other Branches of State, of Armed Institutions, of the spiritual authorities, of social organisations, and of the whole national community. I ask everyone for their cooperation so together, respecting and helping each other, with understanding and generosity, we do what is necessary to heal the wounds of the past and to build a future of justice, progress and peace for Chile.

Santiago, March 4, 1991