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## THE LEGAL SYSTEM AND SOCIALISM†

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*In this speech, the Subsecretary of the Chilean Ministry of Justice points out the contradiction between Chile's legal system and the new social reality being fostered by the socialist government of President Allende and discusses the paradox and problems of a government committed to improving the life of the working class while operating within legal channels designed by the bourgeoisie to maintain itself in power. The author also examines the legal problems of immediate concern to the government.*

The theme I must undertake to discuss—the legal system and socialism—is most difficult. Let me begin with a brief explanation. My purpose is not to engage in abstract and ahistoric reflection removed from reality, not to discuss socialism and the legal system in theoretical terms. Nor shall I attempt to apply to Chile the experiences found in the history of other countries—historical experiences lived by other peoples, with other realities, within other political conditions and structural situations. Instead, I wish to reflect on the Chilean experience, the significance of the triumph of the Popular Government, and the role of the legal system in the construction of socialism in Chile.

It must be recognized that the Government is anxious to channel the popular desire and to initiate in this country an historic process distinct from those of the past. It seeks to realize the social compact in a new form in order to chart a new era in the history of Chile. The Government wishes to implement a project of socialist liberation that will break the monotony of domination. Nevertheless, this socialist project grows from our own historic tradition, from a tradition forged and molded by the many struggles of the people since, and even before, their independence, by the struggles and deaths of the proletariat in Chile and by their battles for justice. Springing from the day-to-day efforts of the people, this struggle has been translated on some occasions into electoral contests and, on others, into confrontations. But its goal has always remained that of establishing a different society, a society without divisions among Chileans, a society where justice would truly reign. By providing a new historic stage for Chile,

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† Translated from 20 MENSAGE, No. 200 (July 1971) by Stewart Macaulay, Professor of Law, University of Wisconsin. Translator's note: I wish to thank Joseph Thome, Professor of Law, University of Wisconsin, for helpful suggestions made on an earlier translation, although mistakes are, of course, mine.

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the Government seeks to catalyze this already more than 100-year-old tradition of popular struggle.

Clearly something new has happened in Chile; we have the opportunity to realize a socialist project born in our own history, which must accordingly be evaluated in view of these roots. And if we wish to understand this process, we must utilize a method of analysis, a form of perceiving reality, which is fundamentally historical, not one based on dry and abstract principles.

It is important to place the problem of the legal system within the new horizons that are opening for Chile. Upon arriving in Chile, many foreigners may be surprised that in a country in full revolutionary ferment, people are dedicated to legalistic debates, to discussions concerning the legality of certain Government actions, and to attempts to determine whether particular reforms conform to the rule of law. For example, in an interview with the President, Comrade Regis Debray questioned whether it is sensible to discuss the legality of seizures or occupations of *latifundia*,<sup>1</sup> or whether the interventions of the government in agricultural or industrial enterprises are legal, when what really is at stake is the fate of the workers.<sup>2</sup> I believe he exaggerated; clearly the discussion of legality in Chile has much importance at this moment.

The legal system is, fundamentally, a normative instance of history. It defines goals, decides what roads society must travel, and dictates the norms of social action. The legal system, therefore, has within its essence a profound political content; it is not a flower which blossoms in the desert. Law always expresses a vision of society. It also expresses the groups behind this vision and the interests served by conceiving the society in that particular form.

And what happened when the Popular Government assumed power in Chile? It inherited a legal system that exhibits two types of contradictions which, in turn, explain the originality of the Chilean road to socialism.

First, there is a contradiction between the legal system and the reality which it pretends to govern. That is, although a series of abstract principles and norms exist in the law, they do not apply in practice. Justice is not implemented in administrative or even in simple social relationships. While the law and the Constitution speak of liberty, equality, and the absence of privileged classes in Chile, these words have all of the weight of a vacuum.

Why does this contradiction between the legal system and reality exist? The legal system has constantly been molded by an histori-

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1. Large, privately owned estates.

2. R. DEBRAY, *THE CHILEAN REVOLUTION: CONVERSATIONS WITH ALLENDE* (1971).

cal process of capitalist domination, but has been unable to achieve structural consolidation because the social reality is antagonistic to this capitalist process. In the developed capitalist countries there exists what might be termed efficient exploitation; there, the contradiction is able to hide behind the false happiness of abundance. But, in the countries of our America, exploitation has been crude, open, and without compensation. Hence, rebellion and rejection of the past, both of which are symptomatic of open exploitation, are now erupting throughout America.

The people no longer wish to travel down wornout roads; they are tired of declarations, empty words, paternal gestures, and the expert's voice. Nor do they any longer wish only half a life. As a result, a class consciousness has been forming and spreading throughout the country, generated by the daily struggles of the people, by the daily suffering of the industrial and agricultural worker, and by the uncertainty of the slum dweller. The new class consciousness seeks to end or alter the legal system that reflects this suffering and basic uncertainty. The law must be redirected because it expresses interests other than those of the working classes. And that is the case in the most diverse areas of social life, from the administration of justice to the regulation of the economic process to political organization.

One might say that with the passage of time, the people have developed a legal conscience, often incipient and often unexplained, but nevertheless imbued with a knowledge that contradicts existing legal norms. It is hardly a mystery to anyone that life in the *poblaciones marginales*<sup>3</sup> of Santiago does not conform to official legality. Therefore, any effort to improve the life of the poor within the existing legal framework will not only fail, but perhaps even backfire, for it represents a social reality, a political reality, and a cultural reality divergent from legal norms.

This contradiction between the legal system and reality is a class contradiction between those who in the past decided the destiny of Chile and the people who struggled to take power and mold society in their own image and likeness. In legal thought—I refer here to the most diverse schools and tendencies, including some that respond to politically conservative conceptions—the establishment of this contradiction is a forewarning of revolution. The revolution is born when the people lose faith in the legal system. And the people lose confidence in the legal order because the law both hides and perpetuates the structural contradictions present in other areas of social life, particularly in the economy, which impair even their low standard of living.

When the people lose confidence in the law—that is, in the historical process sanctioned by the current law—there arises what

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3. Slums.

we might call a new law, a law not yet fixed in rules and not explicitly recognized by the state, but one that nevertheless crystallizes and captures life. The revolution reflects precisely the intention of the people to take control of the state in order to create new conditions of life and, therefore, to generate new norms of social welfare.

In this sense, we in Chile are in the vortex of a revolutionary situation. The Government seeks substantially to alter the structure of social life, thereby opening a passage to a new society. It has always said this; nothing has been hidden. Whenever it has been asked about the destiny of Chile, the Government has responded unequivocally. There is a program of action known to all Chileans; this program—and here is the paradox—not only alters Chile's historical process, but also adopts as its own the tradition of those many years of popular struggle that the country experienced. This then is the nature of the contradiction in Chile between the legal system and social reality.

There are other types of contradictions, perhaps secondary, that also help one to understand the uniqueness of the Chilean political situation. They exist within the heart of the present legal system itself. These contradictions originated in the popular struggle which, over the years, has been able to translate some of its goals into laws and decrees with a popular orientation. The people have been introducing norms that respond to their interests and aspirations into a legal system both foreign to the people and imposed upon them. The labor law was achieved by an alliance of middle class and proletarian groups; it was not a gratuitous gift of the capitalist class. Likewise, the agrarian reform law was born in the fight of the *campesinos*<sup>4</sup> for land. Thus, the recapture by the workers of that which was theirs became crystallized in legal norms. This was also the case in the expansion of the right to vote, the right of secret ballot, and in general election legislation. Similarly illustrative are various rules, now forgotten by Chilean legal scholars, concerning state intervention in economic life.<sup>5</sup> Decrees issued in the 1930's by Chile's first popular front government now permit the Popular Government to influence the economic process within a framework of legality.

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4. Rural workers.

5. Translator's note: In 1932, a decree with the force of law was issued which allowed the government to intervene and take over a business which had failed adequately to supply articles of public necessity. Decreto Ley No. 520 (1932). To a great extent the decree was forgotten until the Allende government discovered its possibilities as a means of nationalizing industries. There is nothing in the law explicitly creating an obligation to give back the property to the owners after the intervention has solved the problems of the business which justified intervention. Chilean legal procedure does not allow a court test of the Government's interpretation of this decree nor of the interpretation of the Government's opponents. The issues are discussed in 1 ESTUDIOS JURIDICOS, No. 1 (Jan. 1972).

In sum, the people began to plant the roots of their own power within bourgeois legislation. Norms expressing their power were achieved through the spirit of struggle and the organization of the people. This phenomenon—said by some to be an historical experience absolutely unprecedented—allows a popular government to be constituted on the basis of the vote and to exercise its power by means of the law.

It is a revolutionary paradox: Because of its own internal contradictions, a legal system—a game of bourgeois democracy designed by the bourgeois to maintain itself in power—permits the people to come to power, or at least to some centers of power, and to utilize that system of legislation to transform society. A legal system established to perpetuate domination opens the doors of the state to the oppressed. This fact surprises everyone, particularly the democrats, for those who made the law did not think about the people. They never imagined that the people would achieve a majority at the polls. Thus follows the stupor and the uncertainty of the dominant groups who, in order to be faithful to their own ideals, find themselves forced to respect the popular triumph.

Recognition of the contradictions internal to the legal system is crucial if one is to understand why this government, with a revolutionary calling, adjusts its actions to the law and respects the law to the last comma. One who reads carefully Debray's interview with President Allende<sup>6</sup> will see that Debray is constantly asking how there can be a process of change in Chile when bourgeois legislation has not been bypassed. Debray considers revolutionary change synonymous with a departure from legality. But the secondary contradictions present in the Chilean legal system permit our historic process to change within a legal framework; change while respecting the law thus becomes possible. This experience offers a new challenge to legal thought.

Legality is a secondary but nonetheless important and relevant characteristic of the Chilean revolutionary process. This proposition must be understood to avoid misconstruing the political juncture at which the country now stands. Our road toward socialism does not seek to extend itself to other countries; as the President has so often repeated, we do not wish it to be converted into an example for other historic processes, for, of necessity, they occur within political conditions different from our own. Our experience is, however, a landmark in the revolutionary struggle of all peoples.

The tension between change and respect for law demands serious reflection. I recall a book by an Italian professor that posed the question whether it is possible to carry out a revolution

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6. DEBRAY, *supra* note 2.

through legal means; that is, can a power change the law while respecting it? Distinguishing the form of law from the content of legal rules, the author affirmed that one could indeed change the content and the orientation of the legal system, while respecting the form that the current law provides for producing rules.

This, however, is a complicated theme that has motivated political reflection through the ages. Plato confronted it in the *Crito*. Socrates, condemned unjustly by the Court of Athens, refused to evade the sanction of the law; political ethics prompted him to respect a sentence he knew to be unjust, and which cost him his life. For Plato, the law contained something akin to the immutability of ideas and must, therefore, be complied with, regardless of the injustice produced by its dispositions.

Later, Machiavelli recommended that the Prince, if he wished to change society, should respect appearances and formality, for the people will resist a change of forms, but will not oppose the transformation of reality itself when it is accomplished within traditional forms. In support of this assertion, he submitted the example of the Roman Republic that retained customs of the old monarchy. Rupture of the law, he suggested, is an extreme response. Apart from the Machiavellianism present in this position, his counsel undoubtedly contains a profound political insight: We affirm that we can change the historic course of the country while respecting legality, and that within existing legal channels we can alter reality and, consequently, the law itself. No democrat can deny us this possibility.

Yet many now assert it is important to respect "the general principles of law" and not merely the rules by which these principles have been translated. The concept of "general principles of law" is ambiguous and often hides within it the political ideology of those who invoke it; however, there are certain basic juridical principles—such as the nonretroactivity of penal law, habeas corpus, and the hierarchy of rules—that must be maintained. No one seeks to eliminate these principles. Therefore, when this problem is discussed, it is essential first to clarify exactly what principles are involved.

Some have accused the Government of using the letter of the law against its spirit. But what is the spirit of the law, and who determines it? We submit it is the function of the courts of justice, through the case law, to determine over the years the spirit of legislation. Those who today invoke the idea of respect for the spirit of the law are not the courts, but rather the organs of information for the opposition. They express a mistaken idea about what the law is and what its spirit is. They think that the law is an inert norm, standing apart from historical events, and that its spirit remains unchanged over time. For them, it is an old fashioned spirit, fixed once and for all by the author of the law,

without any reference to the popular will. If that were the spirit of the law, there would be no room for doubt that the Government does utilize, and would have to continue to utilize, legislation in disregard of—and even against—its spirit. But the spirit of the law, expressing the sovereign will of the people through their representatives, itself changes to conform to the popular will. The spirit of the law will continue to conform to the historical process and will always be more than simply the shade of an ancient judge or legislator, however eminent he might have been.

In Chile the present spirit of the law is contained in the historic choice which the people made when they elected their government. The desire for change surpassed the boundaries of the parties of the *Unidad Popular*.<sup>7</sup> For this reason, we are now able to use the law for change while conforming to its spirit, for the spirit of the law itself has changed.

Andres Bello anticipated the danger underlying resort to the vague and imprecise notion of the spirit of the law as a basic criterion. In Article .9 of our Civil Code, he prescribed that "when the sense of the law is clear, one may not depart from its literal words, on the pretext of consulting its spirit."<sup>8</sup> Those who now commence to speak of the spirit of the law forget this basic precept of our legislation; moreover, they forget that the spirit of the law is synonymous with life itself.

All these allegations regarding the spirit of the law trace their origin to an historic and political paradox: When the Popular Government assumed the supreme mandate of the nation, a legal system designed to oppose the interests of the *Unidad Popular* was turned in its favor. For example, a statute relating to the internal security of the state was passed in the 1940's to repress those who wished to introduce profound transformation in the society. Its provisions prohibit what its authors, without precisely defining the type of crime sanctioned, called "inciting to violence." But once the people themselves gained control of the government, that law, conceived and promulgated by others for other purposes,

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7. Translator's note: The *Unidad Popular* is a coalition of many political parties, originally both Marxist and non-Marxist. The Marxist parties include the Socialists and Communists, as well as the Catholic Marxist party. José Antonio Viera-Gallo is a member of the Movement of United Popular Action (MAPU), the Catholic Marxist party. The largest non-Marxist element in the *Unidad Popular* withdrew in April 1972. The Subsecretary's reference in the text is to the program of the defeated Christian Democratic presidential candidate Radomiro Tomic. It is possible to view Tomic's positions in some aspects—notably nationalization of copper and agrarian reform—as at least comparable to those of President Allende. If one combines the votes received by Allende and Tomic in the presidential election of 1970, he can argue that a clear majority of Chileans favored fundamental economic and social change.

8. Translator's note: Andres Bello was the principal draftsman of the Chilean Civil Code.



acquired a different political significance. Today those who formerly used such laws to repress the people must suffer the rigor of their application. The law has turned on its authors. It is not strange that, having to see themselves in illegal positions, they begin to invoke the spirit of the law, as if they were the sole owner and interpreter of that spirit.

Nor is it strange that subversive activity is now emerging. Those who harbor in their hearts the conservation of existing structures see today with desperation how the law can be used by the Government to change the system that formerly served their interests. As we have said on many occasions, there will be no transgression of the law on the part of the Government; but if those opposing the actions of the Government transgress the law, the implacable weight of the norms they dictated will fall upon them.<sup>9</sup>

Before I conclude, I wish to sketch, though in very broad strokes, the legal problems of immediate concern to the government. I do not seek to provide a portrait of future Chilean society, nor to present the type of socialism Chile wishes to construct; speculation about tomorrow is too often an escape from the challenges of today. Instead, I wish only to explain briefly and in

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9. In reality, there are no transcendental ethical reasons for maintaining the legality of a regime. According to revolutionary thought, respect for the law cannot be general and indiscriminate, but must necessarily refer to well determined historical circumstances. This is also the position of an adequate political ethic, which must be formed and lived in history. Once having made this reservation, it is worthwhile to recognize that countless advantages exist in making the transition to socialism in Chile while respecting legality. They have already been mentioned by President Allende in his speech of May 21, 1971:

The principle of legality controls today in Chile. It has been imposed through a struggle of many generations against absolutism and arbitrariness in the exercise of state power. It is an irreversible conquest as long as any differences exist between the governed and the governors.

The popular movements have not denounced the principle of legality. We protest against a legal organization whose postulates reflect a socially oppressive regime . . . . It depends in grand part on the realism of the Congress whether the capitalist legality is succeeded by socialist legality conforming to the socio-economic transformations which we are implanting. Without this succession, a violent fracture of legality opens the doors to arbitrariness and excesses which, responsibly, we wish to avoid.

Conforming to this reality, our Program of Government has promised to realize its revolutionary work respecting the State of Law. It is not simply a formal promise, but an explicit recognition that the principle of legality and institutional order are compatible with a socialist regime despite the difficulties encountered in the period of transition.

Maintaining these principles, but transforming their class sense, is, during this difficult period, an ambitious task of decisive importance for the new social regime.

S. ALLENDE, NUESTRO CAMINO AL SOCIALISMO—LA VÍA CHILENA 35, 36 (J. Garcés ed. 1971).

broad aspect the immediate legal problems that the Government must confront.

One of our most urgent tasks is to fix the legal rules regulating the economy. The program of the *Unidad Popular* contemplates three forms of property in the economy: Social property, mixed property, and private property. This is not a long-range goal, but a fundamental element of the policy launched by the Government to reactivate the economy. Thus, laws regulating these three forms are an immediate concern. We must delimit the area of action of each—above all of the social form—define the form of mixed property, and guarantee adequately the form of private property to promote the productive efficiency of small and medium-sized industrial and agricultural enterprises.

While these objectives may seem obvious, the effort itself is a matter of great legal complexity. It involves proposing to Congress the adoption of a body of fundamental laws capable of structuring the economy according to new criteria, while assuring at the same time the increased productivity of the different sectors. This new economic legislation is doubly necessary since the norms upon which the Government has relied up to now to achieve its economic program have been inadequate. We need new legal tools which will permit the state to control the nerve centers of the economic apparatus—enabling it to initiate socialist accumulation of capital, the foundation necessary to contract socialism within the conditions of underdevelopment that characterize Latin America. At the same time, these norms must guarantee the livelihoods of small- and medium-sized businessmen and merchants, making them independent of the control presently exerted by monopolistic enterprises.<sup>10</sup>

Another fundamental task is the reorganization of the state. The program of the *Unidad Popular* offers basic direction, but these principles have not yet been made concrete in projects and specific norms. There remain many details to develop about restructuring the state so that it will play the preponderant role it must

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10. Until now the preoccupation of the Government has been centered more in the control of the economic apparatus than in the regulation of its functioning. However, to bring forward a policy of development, it is fundamental to think about the form in which the economic system must operate in the future. Three problems are, in our judgment, most important: (1) Legal regulation of the internal organization of the enterprises which are part of the area of social property; (2) legal regulation of the relations among enterprises, the type of contracts which they will make, and the rights and obligations that they create; and (3) the form in which planning will be institutionalized, that is to say, the relation of the enterprises with the central authority of the state. Each of these problems could be subdivided into many others, each of which presents its own complexity. Without a global reflection about the structure and functioning of the economic system, any short-, medium-, or long-range policy lacks the necessary theoretical and empirical fundamentals.

in the construction of socialism. Chile is still a liberal capitalist state, organized according to the classical tripartite division of power. Hence its actions must conform to public laws that impede its efficient intervention in economic life. Our state, whose constitutional consolidation dates from 1925 and, even more remotely, from 1833, was organized with its role limited to guarding the public order and the national security. Nevertheless, social pressures, principally from the middle strata, have obliged the liberal state to attempt diverse forms of economic intervention without, however, altering its constitutional base. Thus, while state intervention in the economy has grown, it has been ineffective. The action of the state has been so inorganic and contradictory that an illustrious Chilean jurist once declared it had lost its legal cohesiveness.<sup>11</sup>

The new government has included among its needs and goals that of allowing the state to play a much more active role in economic life, particularly in nationalization of the copper industry and the banking system, as well as in many other measures of equal significance. Consequently, it is essential to transform the organization of the state to achieve two objectives: the efficient guiding and the effective expression of the interests of the people.

Through reform of the state, the culmination of the process of change through which the country has passed, we intend to progress from formal democracy to real democracy. Under real democracy nothing of formal democracy is lost—neither the liberty of expression, the liberty of religion, the liberty of choice through voting, the liberty of association, nor the liberty of movement—but in a real democracy all these liberties are firmly grounded in the basic liberty of man to be master of his own work and of the fruits of his efforts. The liberties proclaimed by liberalism come into actual being only when rooted in the liberty of the people—provided by the social appropriation of the means of production—to decide the objective and the destiny of their individual and collective existence.

The passage from formal to real democracy raises numerous reactions and doubts, some of which are held in good faith, but others of which are born of the fear of losing privileges camouflaged within a false liberty. The Government has offered more than sufficient proof of its respect for the rules of the democratic game, but it cannot be content with limiting its action to the conservation of this game. It must transcend the limits of the existing law by initiating a process of effective democratization.

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11. Translator's note: See Novoa, *The Crisis of Law*, 2 BOLETIN DEL INSTITUTO DE DOCENCIA E INVESTIGACIÓN JURIDICAS 39 (Jan. 1972). Eduardo Novoa Monreal is one of the most important lawyers in Chile today. He has been the architect of many of the actions of the Allende government, particularly the nationalization of United States corporations' copper mines and the controversial "excess profits" formula.

Basic to the two fields of legal action in which the new government will concentrate—economic regulation and political organization—is participation of the people as the fundamental agent in the process Chile is experiencing. The term participation can be ambiguous, but to us it acquires its full sense and existence within the national political context. And here many questions arise: How to organize participation of the people in public administration, how to structure participation of the people in the public and mixed enterprises, and how to achieve participation of the people in state and enterprise in such a way that their voices can be heard in each and every center of decisionmaking. This theme has been discussed with the Trade Union Federation (*Central Unica de Trabajadores*), which has already approved the general structure of a project being formulated by the Ministry of Labor.<sup>12</sup> But the problem of participation continues, for it has been neglected by academicians in the faculties of law.

We face, moreover, important problems in two other areas: the defense of the new society through penal legislation and the administration of justice. Concerning the first point, I wish to reaffirm our intention to transform the penal code, which currently suffers from great deficiencies in the conception of crimes, and in treatment, and in the classification of types of criminal behavior. We recognize that progress has already been made, including the partial drafting of a model penal code for Latin America. Most admirably the criminal law scholars of the continent have continued to meet in an effort to unify our penal legislation. However, we must confront this work with the new historical Chilean experience to ensure that it suits our needs and requirements. Redefinition of the interests to be protected, in both the nature and the form of protection, follows naturally from the process through which we are living. It is not mere chance, for example, that almost half the criminal cases before the tribunals in the province of Concepción concern crimes against property. Thus, we must make precise the interests that the law will defend, in order that penal legislation will give real protection to the society we are constructing.

But this alone is insufficient. We must also change the purpose of punishment and recognize modern conceptions of criminology.

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12. It seems useful to remember here the arguments of the Ninth National Conference of CUT regarding worker participation:

Planning is the substantive method of economic direction in the government of transition to Socialism, as in Socialism itself. It ought to be not only a method tending to rationalize the economy, but also a process which incorporates the working class into the system of political and economic decisions. Participation must take place at all levels, as much national and regional as sectoral, of the economic areas. It thus will be a dynamic element in that process and will permit the limitation of bureaucratism and technocratism; that is to say, the officials and technicians would not be the only decisionmakers.

To recall Marx's assertion, rather than castigating individuals who commit infractions of the law, we must remove from society the reason for the crime. With the hopeful vision that it is possible to decrease the indices of delinquency, we must begin a campaign to eliminate the structural conditions that incite, indeed almost force, a man to crime. Toleration of such conditions itself violates personal liberty. In this matter, much remains to be learned from the socialist countries, both about the types of penal legislation enacted and about the policies of preventing crime that have been adopted.

Finally, on problems of the administration of justice, the government has two basic ideas, perhaps a bit discordant, but nevertheless irrevocable. First, the people have the right of equal access to the administration of justice, for access is essential to the right of justice. To achieve this goal, the judicial apparatus must be organized so that every right a citizen possesses will be recognized and protected by the judiciary. This is not today the case. The magistrates themselves have denounced the failure of justice, although they have differed on the best way to remedy the deficiency. Besides introducing modifications in the organization of judicial power, it is necessary to modernize and to transform the procedures by which tribunals hear cases and resolve conflicts. Of special concern is the penal procedure that currently has definite inquisitorial features.

Second, the state must guarantee to the people not only access to justice, but also participation in the exercises of judicial power. Learning from experiences of many countries, we want the people to participate in numerous ways in the administration of justice. Perhaps we differ as to the form of this participation, but we start from a common assumption—the self-discipline of the people in matters of justice. Several months ago we introduced a bill in the Congress through which these ideals would be made concrete by the creation of neighborhood courts (*tribunales vecinales*). Numerous jurists and magistrates, with diverse political ideologies, participated in its drafting. The bill was based partially on the phenomenon of popular justice or informal conflict resolution, which has been growing spontaneously and totally unregulated throughout Chile and which resolves problems of incandescent interest to the people. Popular justice is now common in land reform settlements, rural cooperatives, neighborhood councils, and other community groups. The Government does not want to remain indifferent to the demand of the people, and hence, the bill creating *tribunales vecinales* collected together and consolidated all these experiences.

These then are the tasks of the Government that pose immediate challenges to legal experts, jurists, and above all, teachers and researchers in this area: (1) Regulation of the economy to pro-

mote the three forms of property that the program establishes; (2) reorganization of the state so that it can be an efficient conductor of the historic process we have initiated; (3) establishment of popular participation to ensure that the people become the agent of history; (4) formulation of new methods to defend society and to sanction those who infringe social norms; and (5) modernization, streamlining, and restructuring of the administration of justice.

I wish once again to reaffirm the importance that the Government attributes to the creative study of law and to call upon law faculties to collaborate critically from an academic perspective in the work which the people of Chile are commencing. We are inspired by one idea: Before the law—before all the legal apparatus that seems so cold, so abstract, so divorced from reality—stands mankind.

To conclude, I wish to retell a familiar episode independent of its religious significance. Long ago, a man walked in the countryside and his disciples followed Him. The disciples were hungry, so when they saw stalks of wheat in the fields, they cut the wheat. Since it was the Sabbath, the law prohibited such work. It was said to Him: Why do your disciples cut wheat on the Sabbath? And He answered: Because man was not made for the law, man was not made for the Sabbath, but the law for man and the Sabbath for man. Before the law, there is man, and the challenge for the Government is to put law at the service of man—and man above all.