

III. STUDY OF REPORTED VIOLATIONS OF HUMAN RIGHTS IN CHILE,
WITH PARTICULAR REFERENCE TO TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

25. The Commission considered agenda item 5 at its 1453rd to 1458th meetings, on 23, 24 and 27 February 1978; and at its 1467th meeting, on 6 March 1978.
26. In its resolution 9 (XXXIII) of 9 March 1977, the Commission had decided to consider at its thirty-fourth session, as a matter of high priority, the question of the violation of human rights in Chile. In that resolution, the Commission, acting in accordance with General Assembly resolution 31/124 of 16 December 1976, extended the mandate of the Ad Hoc Working Group established under Commission resolution 8 (XXXI) of 27 February 1975 to inquire into the situation of human rights in Chile, and it requested the Group to report to the General Assembly at its thirty-second session and to the Commission on Human Rights at its thirty-fourth session with such additional information as might be necessary. In the same resolution, the Commission requested the Secretary-General to invite Member States, United Nations agencies and international organizations to inform him of the steps taken to implement paragraph 4 of General Assembly resolution 31/124 and to report to the General Assembly at its thirty-second session and to the Commission at its thirty-fourth session.
27. The Ad Hoc Working Group, consisting of five members appointed in their personal capacity by the Chairman of the thirty-first session of the Commission, who exercised their functions under his chairmanship, was composed as follows: Mr. Ghulam Ali Allana (Pakistan), Chairman-Rapporteur; Mr. Leopoldo Benites (Ecuador); Mr. Felix Ermacora (Austria); Mr. Abdoulaye Biéye (Senegal) and Mrs. M.J.T. Kamara (Sierra Leone).
28. In section I of its resolution II (XXX), entitled "Study of certain questions relating to the situation of human rights in Chile", adopted on 31 August 1977, the Sub-Commission on Prevention of Discrimination and Protection of Minorities decided, in accordance with the request made by the Commission in its resolution 9 (XXXIII), to undertake a study on the consequences of the various forms of aid extended to the Chilean authorities; the Sub-Commission appointed Mr. Antonio Cassese as Rapporteur for the study and requested him to analyse the volume, origins, development and significance of the assistance given to the present régime in Chile, to study whether a quantitative or qualitative change in the aid now being given might contribute to restoring respect for human rights in Chile and to submit a progress report to the Commission at its thirty-fourth session.
29. In section II of the same resolution, the Sub-Commission recommended that a voluntary fund administered under the authority of an independent board of trustees should be established to receive contributions and distribute humanitarian, legal and financial aid to those detained or imprisoned in Chile under the state of siege and other emergency legislation, to those forced to leave the country and to their relatives, and requested the Secretary-General to prepare a report for the Commission on Human Rights at its thirty-fourth session which would include suggestions as to methods of establishing the fund, the administrative and legal structures of the fund, sources of financial contributions to the fund, and channels of distribution of the aid.
30. The Ad Hoc Working Group submitted its report to the General Assembly, at its thirty-second session in document A/32/227. The General Assembly, after considering the question of human rights in Chile, adopted resolution 32/118 of 16 December 1977

in which, after concluding that constant and flagrant violations of human rights continued to take place in Chile, it invited the Commission on Human Rights to extend the mandate of the Ad Hoc Working Group, as presently constituted, so as to enable it to report to the General Assembly at its thirty-third session and to the Commission at its thirty-fifth session, with such additional information as might be necessary. It further invited the Commission on Human Rights to present to the General Assembly at its thirty-third session, through the Economic and Social Council, specific recommendations on possible humanitarian, legal and financial aid to those arbitrarily arrested or imprisoned, to those forced to leave the country and to their relatives and also to submit to the General Assembly at its thirty-third session, through the Economic and Social Council, a progress report on action taken in compliance with paragraph 5 (c) of General Assembly resolution 31/124.

31. The Commission had before it the following documentation:

(a) The report of the Ad Hoc Working Group to the General Assembly at its thirty-second session (A/32/227);

(b) The report of the Ad Hoc Working Group to the Commission on Human Rights at its thirty-fourth session, which supplements the Group's report to the General Assembly (E/CN.4/1266);

(c) The report of the Secretary-General on the implementation of paragraph 4 of General Assembly resolution 31/124 (A/32/234);

(d) The report of the Secretary-General to the Commission on the same subject (E/CN.4/1268 and Add.1);

(e) A progress report on the impact of foreign economic aid and assistance on respect for human rights in Chile prepared by Mr. Antonio Cassese, Rapporteur appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1267);

(f) The report of the Secretary-General containing suggestions relating to the establishment of a voluntary fund pursuant to Sub-Commission resolution 11 (XXX) (E/CN.4/1269);

(g) Observations of the Government of Chile on the report of the Ad Hoc Working Group to the General Assembly at its thirty-second session (A/32/C.3/6);

(h) Observations of the Government of Chile on the report of the Ad Hoc Working Group to the Commission on Human Rights at its thirty-fourth session (E/CN.4/1290);

(i) A letter dated 14 February 1978 from the Permanent Representative of Chile to the International Organizations at Geneva addressed to the Director of the Division of Human Rights (E/CN.4/L.1377 and Add.1);

(j) A written statement submitted by the International Indian Treaty Council, a non-governmental organization in consultative status (category II) (E/CN.4/NGO/223);

(k) A written statement submitted by the World Peace Council, a non-governmental organization in consultative status (Roster) (E/CN.4/NGO/224);

(l) The summary records of meetings of the Third Committee of the General Assembly at its thirty-second session at which the question of human rights in Chile was discussed (A/C.3/32/SR.54, 56-64 and 72).

32. The Commission heard statements by the observers for Chile (1454th, 1458th and 1467th meetings), Czechoslovakia (1457th meeting), the German Democratic Republic (1455th meeting), Hungary (1456th meeting), Mongolia (1456th meeting) and Venezuela (1457th meeting).

33. The observers for the following non-governmental organizations in consultative status addressed the Commission: Amnesty International, Christian Democratic World Union, International Commission of Jurists, International Indian Treaty Council, Women's International Democratic Federation, World Federation of Trade Unions, World University Service (1456th meeting); International Association of Democratic Lawyers, Socialist International (1458th meeting).

34. At the 1453rd meeting the Chairman-Rapporteur of the Ad Hoc Working Group introduced the Group's report contained in document E/CN.4/1266. He also made a statement at the 1458th meeting, in which he appealed to the Government of Chile to co-operate with the Group with a view to agreeing on the modalities of a visit by the Group to Chile in fulfillment of the Group's mandate. The Chairman-Rapporteur considered that enhanced co-operation between the Government of Chile and the Group could greatly contribute to the restoration of human rights in that country.

35. At the 1454th meeting the Rapporteur of the Sub-Commission introduced his progress report on the study on the consequences of the various forms of aid extended to the Chilean authorities, entrusted to him under Sub-Commission resolution 11 (XXX). In the course of his statement, the Rapporteur indicated how he intended to proceed in the preparation of the study, the issues that he would examine and his methods of work. In another statement, at the 1458th meeting, the Rapporteur responded to questions which had been raised as to the scope of the study within the framework of his mandate.

36. Most of the speakers expressed appreciation to the Ad Hoc Working Group for its valuable work and commended its reports, which they found to contain an impartial and objective description of the situation of human rights in Chile, on the basis of the information available to the Group.

37. Several representatives welcomed the action taken by the Sub-Commission to undertake a study on the consequences of the various forms of aid extended to the Chilean authorities and to appoint a rapporteur to prepare such a study. Some of the speakers expressed appreciation for the progress report of the Rapporteur and support for the study undertaken. One representative recommended that the concepts of foreign aid and assistance should be objectively established and that the study should be carried out within the framework of the United Nations Charter.

38. Some speakers praised the progress made towards the establishment of a voluntary fund in order to receive contributions and distribute humanitarian, legal and financial aid to detained persons and their relatives and to those who were forced to leave the country and their families. These speakers urged that such a fund should be established without delay in view of its urgent humanitarian character. A few representatives emphasized that the fund, when established, should engage only in activities of a humanitarian nature; they felt that it should be a general fund rather than a fund for only one country.

39. Many representatives expressed concern over the continued violations of fundamental human rights in Chile under the state of siege. While some representatives welcomed the decrease in the number of arrests, in the number of persons disappearing for political reasons and in the number of reported cases of

torture, other representatives stressed that the situation as regards violations of human rights in Chile had not changed and that State security organs, under a different name, continued to arrest, intimidate and torture opponents of the régime.

40. Most speakers expressed indignation at the refusal of the Chilean Government to account for the large number of persons missing for political reasons and urged that the Chilean authorities co-operate in the investigation to determine the whereabouts or to clarify the fate of persons who had disappeared.

41. Several speakers stated that the measures taken by the Chilean Government against the political parties and political activity as well as the continuation of the state of siege were a step away from the hope for the restoration of democratic institutions in Chile and the constitutional safeguards to which the Chilean people were entitled. In this connexion they considered that the national consultation held by the Chilean authorities was, under the circumstances prevailing in Chile, not a reliable indication of the situation of human rights in Chile.

42. It was generally agreed that the mandate of the Group should be extended as recommended in General Assembly resolution 32/118. In this regard, most speakers deplored the refusal of the Chilean Government to permit the Group to visit Chile as was provided in its mandate and urged the Chilean Government to enter into a constructive dialogue with the Group aiming at arranging such a visit. Some representatives considered that the Chilean Government was bound by its original agreement to the creation of the Group, and that it was not possible at this stage to revert to different procedures in the inquiry into the situation of human rights in Chile.

43. The observer for Chile stated that his country had been subjected to unfair and discriminatory treatment by the United Nations and the international community. Any inquiry into the situation of human rights in Chile should be carried out on the basis of Economic and Social Council resolution 1503 (XLVIII). The resolution calling for a study of the impact on human rights in Chile of foreign economic aid and assistance was an unwarranted interference in the internal affairs of his country, as were certain aspects of the reports of the Ad Hoc Working Group. He considered the United Nations resolutions and the inquiry of the Ad Hoc Working Group as an interference in the internal affairs of his country and an infringement of its sovereignty. The national consultation held by the Chilean Government had shown, according to the observer for Chile, that the Chilean people rejected the discriminatory approach of the United Nations and the interference in their country's internal affairs. He further reiterated that the measures taken by the Chilean Government had greatly improved the situation of human rights and created an atmosphere and climate of progress, which his Government was determined to protect. His country would be open to any suggestions for an on-the-spot investigation but on condition that such an investigation would be carried out under generally accepted rules of procedure.

44. At the 1467th meeting the representative of Sweden introduced a draft resolution (E/CN.4/L.1398) sponsored by Cyprus and Sweden, and subsequently also by Cuba and Yugoslavia. At the same meeting the representative of Sweden also introduced a draft resolution (E/CN.4/L.1399/Rev.1) sponsored by Austria, Sweden, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The representative of the Secretary-General made a statement concerning the administrative and financial implications of the draft resolutions. With regard to future implications, he stated that all operating costs, including costs relating

to the board of trustees, would be borne by the trust fund. The statement on the financial implications of draft resolution E/CN.4/L.1399/Rev.1 was distributed as document E/CN.4/L.1403.15/

45. At the 1467th meeting, on 6 March 1978, the draft resolutions were put to the vote. A number of representatives explained their votes on the draft resolutions.

46. At the request of the representative of the Union of Soviet Socialist Republics, a separate roll-call vote was taken on the seventh paragraph of the preamble of draft resolution E/CN.4/L.1399/Rev.1. The paragraph was adopted by 17 votes to 5, with 9 abstentions. The voting was as follows:

In favour: Australia, Austria, Brazil, Canada, Colombia, Egypt, France, India, Iran, Nigeria, Panama, Peru, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Against: Bulgaria, Cuba, Poland, Uganda, Union of Soviet Socialist Republics.

Abstaining: Cyprus, Ivory Coast, Jordan, Libyan Arab Jamahiriya, Pakistan, Rwanda, Senegal, Syrian Arab Republic, Yugoslavia.

47. Draft resolution E/CN.4/L.1399/Rev.1 as a whole was voted on by roll-call at the request of the representative of the USSR. It was adopted by 24 votes to 3, with 4 abstentions. The voting was as follows:

In favour: Australia, Austria, Bulgaria, Canada, Colombia, Cuba, Cyprus, Egypt, France, India, Iran, Libyan Arab Jamahiriya, Pakistan, Poland, Rwanda, Senegal, Sweden, Syrian Arab Republic, Turkey, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia.

Against: Brazil, Panama, Uruguay.

Abstaining: Ivory Coast, Jordan, Nigeria, Peru.

48. Draft resolution E/CN.4/L.1398 was adopted by 21 votes to 3, with 6 abstentions.

49. For the text of the resolutions see chapter XXVI, section A, resolutions 12 (XXXIV) and 13 (XXXIV).

50. The observer for Chile made a statement in which he expressed Chile's opposition to the new extension of the mandate of the Ad Hoc Working Group. He said that his Government would continue to collaborate with the United Nations, through the Secretary-General, and that it was open to any move by any country or any individual with a view to studying the conditions in which the Group might be accepted and to enabling two members representing the Group to visit Chilean territory.

15/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.