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97th plenary meeting
4 December 1986

41/161. Situation of human rights and fundamental freedoms in Chile

The General Assembly,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms and determined to remain vigilant with regard to violations of human rights wherever they occur,

Noting the obligation of the Government of Chile to respect and protect human rights in accordance with the international instruments to which Chile is a party,

Bearing in mind that the concern of the international community at the situation of human rights in Chile was expressed by the General Assembly in a number of resolutions, particularly resolution 33/173 of 20 December 1978 on disappeared persons and resolution 40/145 of 13 December 1985, in which the Assembly invited the Commission on Human Rights to adopt the most appropriate measures for the effective restoration of human rights and fundamental freedoms in that country, including the extension of the mandate of the Special Rapporteur,

Considering that the Special Rapporteur proposes to submit to the Commission on Human Rights at its forty-third session a final report on the situation of human rights in Chile,

Recalling the pertinent resolutions of the Commission on Human Rights, particularly resolution 1986/63 of 14 March 1986,¹⁶³ in which the Commission decided, *inter alia*, to extend the mandate of the Special Rapporteur for one year and to consider this subject as a matter of high priority, in view of the persistence of serious violations of human rights in Chile,

Deploring once again the fact that the repeated appeals of the General Assembly, the Commission on Human Rights and other international organs to re-establish human rights and fundamental freedoms have been ignored by the Chilean authorities,

Considering certain reports prepared by various non-governmental organizations which have made public the serious violations of human rights in Chile,

Noting that certain measures, such as the re-introduction of the labour tribunals and the establishment of the Advisory Commission on Human Rights of the Ministry of the Interior, are insufficient owing to the restrictions imposed on their competence and that the decision not to banish opponents and expel them from the country does not limit the existing discretionary powers,

1. Takes note with interest of the preliminary report of the Special Rapporteur on the situation of human rights in Chile,¹⁶³ submitted in accordance with Commission on Human Rights resolution 1986/63;

2. Recognizes, as a positive fact, that the Government of Chile permitted the Special Rapporteur to visit the country in December 1985, providing him with its cooperation and free access to the facilities for conducting his investigation and expresses its confidence that a further visit will be authorized on the same conditions in the im-

mediate future; at the same time, it regrets that this cooperation of the Government of Chile with the efforts of the United Nations has not led to a substantial improvement in human rights and fundamental freedoms;

3. Expresses its deep distress at the absence of institutional machinery which protects the unrestricted exercise of civil, political, economic, social and cultural rights, a basic condition for the free expression of the people's will;

4. Expresses its deep concern at the persistence of serious violations of human rights in Chile, as described in the report of the Special Rapporteur, which refers to such violations as deaths, abductions, temporary disappearances, torture and ill-treatment by the security forces, the climate of insecurity, the maintenance of exile and the discriminatory character of the announced list of citizens authorized to return to the country and the denial of fundamental rights and freedoms through the maintenance of arbitrary executive powers during the prolonged period in which states of emergency have remained in force and the recent re-establishment of the state of siege;

5. Expresses its concern at the denial by the Chilean authorities of the exercise of the rights of free expression, assembly and association, through the use of repressive methods and violent responses to social and political demonstrations of opposition, in particular military searches of marginal settlements and university premises and acts of intimidation against religious and lay human rights bodies;

6. Again expresses its conviction that a legal and political order based on the expression of the people's will through an electoral process open, on a footing of equality, to all the citizens and on free elections is fundamental for full respect for human rights in Chile as it is in any other country;

7. Expresses its grave concern at the ineffectiveness of the governmental authorities in preventing the ill-treatment of individuals by the military, police and security forces and expresses particular concern at the failure of the competent judicial authorities to take the necessary steps to conduct full investigations and prosecute those responsible for the numerous unresolved cases of murder, abduction, disappearances and torture;

8. Welcomes with satisfaction the requests from various social and political sectors for the re-establishment of a pluralist democracy;

9. Emphasizes the need for the Government of Chile to restore and respect human rights in conformity with the principles of the Universal Declaration of Human Rights² and in compliance with the obligations it has assumed under various international instruments, so that the principle of legality, democratic institutions and the effective enjoyment and exercise of human rights and fundamental freedoms may be restored, and, in particular:

(a) To put an end immediately to the state of siege declared in September 1986 and to the arbitrary practice of declaring "constitutional states of emergency" under which serious and continuing violations of human rights are committed in the country;

(b) To amend legislation, including the laws permitting the arbitrary use of such states of emergency, so as to bring them into conformity with guarantees of human rights, as defined in international instruments;

(c) To put an end immediately to all forms of physical and psychological torture and to respect effectively the right to life and to physical and moral integrity, and to desist, furthermore, from intimidation and persecution, ab-

¹⁶³ A/41/719, annex.

ductions, arbitrary arrests and detention in secret locations;

(d) To proceed as a matter of urgency, through judicial and administrative action, to investigate all reports of deaths, torture, abductions and other human rights violations by the military, police and security forces and to punish those found guilty of such violations;

(e) To proceed vigorously to end the activities of bands and groups, whether private or connected with security forces, which are responsible for abductions resulting in deaths, intimidation and ill-treatment of persons;

(f) To investigate and clarify without further delay the fate of persons arrested for political reasons who have subsequently disappeared;

(g) To reorganize the police and security forces so as to help put an end to persistent human rights violations;

(h) To ensure the independence of the judiciary and the maximum effectiveness of judicial remedies, particularly *amparo* or *habeas corpus*, to prevent the intimidation of judges, defence lawyers and witnesses, and to re-establish the jurisdiction of the civilian courts delegated to the military courts;

(i) To guarantee that anti-terrorist legislation is not used against persons who have not committed terrorist acts; that persons inculpated in acts of violence or terrorism are accorded due process of law and respect for their

rights, and that the accusation of terrorism is not adduced as a justification for any abuse of authority, torture and inhumane treatment;

(j) To respect the right of nationals to live in and freely enter and leave their country, without arbitrary restrictions or conditions, and to put an end to the practice of forced exile;

(k) To restore the full enjoyment and exercise of economic, social and cultural rights, particularly labour rights and the right to freedom of information, and to preserve the socio-cultural identity of ethnic minorities;

(l) To respect the activities of organizations and persons related to the protection and promotion of human rights;

10. *Invites* the Commission on Human Rights to consider, as a matter of high priority, the report of the Special Rapporteur, taking account of the relevant information at its disposal; to take the most appropriate steps for the effective restoration of human rights and fundamental freedoms in Chile, including extending the mandate of the Special Rapporteur; and to report to the General Assembly at its forty-second session, through the Economic and Social Council, with a view to examining the human rights situation in Chile.

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