

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

63. The Commission considered agenda item 5 at its 1353rd to 1360th meetings, from 16 to 19 February 1976.

64. In its resolution 8 (XXXI) the Commission had decided to consider at its thirty-second session, as a matter of high priority, the question of the violation of human rights in Chile. In that resolution the Commission also decided that an Ad Hoc Working Group of five members of the Commission, to be appointed in their personal capacity by the Chairman of the Commission and to operate under his chairmanship, should inquire into the present situation of human rights in Chile on the basis of various resolutions adopted by United Nations organs and by specialized agencies, a visit to Chile, and oral and written evidence gathered from all relevant sources. The Group was required to report the results of its inquiries to the Commission on Human Rights at its thirty-second session and to submit a progress report on its findings to the Secretary-General for inclusion in his report to the General Assembly at its thirtieth session under General Assembly resolution 3219 (XXIX).

65. The progress report of the Group was placed before the General Assembly in document A/10285. In its resolution 3448 (XXX), entitled "Protection of human rights in Chile", the Assembly inter alia expressed its profound distress at the constant flagrant violation of human rights in Chile, called upon the Chilean authorities to take without delay all necessary measures to restore and safeguard basic human rights and fundamental freedoms and fully to respect the provisions of the international instruments to which Chile was a party, and to that end to pursue certain objectives set forth in the resolution. The Assembly invited the Commission to extend the mandate of the Ad Hoc Working Group, as presently constituted, in order to enable it to report to the General Assembly at its thirty-first session on the situation of human rights in Chile and, in particular, on any developments that occurred to re-establish respect for human rights and fundamental freedoms.

66. The Commission had before it the following documentation:

(a) The report of the Ad Hoc Working Group on the results of its inquiries, consisting of two parts: (i) its progress report contained in document A/10285, and (ii) a supplementary report contained in document E/CN.4/1188;

(b) The report of the Secretary-General submitted to the General Assembly pursuant to its resolution 3219 (XXIX) (A/10295);

(c) The statement of the Chairman-Rapporteur of the Ad Hoc Working Group, made at the 2144th meeting of the Third Committee of the General Assembly (A/C.3/640);

(d) Documents submitted to the General Assembly by the Permanent Representative of Chile to the United Nations:

(i) Letter dated 17 October 1975 from the Permanent Representative of Chile to the United Nations (A/10303),

- (ii) Letter dated 24 October 1975 from the Permanent Representative of Chile to the United Nations, with an annex entitled "The present situation of human rights in Chile" (A/C.3/639),
 - (iii) Letter dated 5 November 1975 from the Permanent Representative of Chile to the United Nations (A/C.3/642);
- (e) Material submitted to the Commission by the Permanent Representative of Chile to the United Nations Office at Geneva:
- (i) Memorandum submitted by letter dated 3 February 1976 (E/CN.4/1197),
 - (ii) Letter dated 9 February 1976 addressed to the Chairman of the Commission (E/CN.4/1204),
 - (iii) Document entitled "Observations of the delegation of Chile on the report of the Ad Hoc Working Group", submitted by letter dated 16 February 1976 (E/CN.4/1207);
- (f) A written statement submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status, category I (E/CN.4/NGO/190);
- (g) The summary records of meetings on the consideration of the question of human rights in Chile by the Third Committee of the General Assembly at its thirtieth session (A/C.3/SR.2143-2154).

67. The Commission heard statements by the Observers for the German Democratic Republic and Hungary at the 1354th and 1358th meetings respectively and by the Observer for Chile at the 1358th and 1359th meetings.

68. The Commission also heard a statement by the representative of the ILO (1360th meeting).

69. In the course of the general debate, the Observer for the Palestine Liberation Organization made a statement (1356th meeting). Also the Observers for the following non-governmental organizations in consultative status addressed the Commission: Inter-Parliamentary Union, Women's International Democratic Federation, International Commission of Jurists (1353rd meeting); International Confederation of Free Trade Unions, Commission of the Churches on International Affairs, Women's International League for Peace and Freedom, World Peace Council (1354th meeting); World Federation of Trade Unions (1355th meeting); World Federation of Democratic Youth and Socialist International (1356th meeting).

70. At the 1353rd meeting the Chairman-Rapporteur of the Ad Hoc Working Group introduced the Group's report contained in document E/CN.4/1188. In the course of his statement the Chairman-Rapporteur informed the Commission that in the opinion of the Group the situation of human rights in Chile had not changed substantially since the adoption of the Group's progress report (A/10285) and expressed the hope that the Government of Chile would re-establish co-operation and consultation with the Group in order to enable it to fulfil its mandate. He reiterated the Group's readiness, if requested, to assist the Chilean Government - objectively and solely in the light of United Nations principles concerning human rights - in the restoration of human rights and fundamental freedoms in Chile.

71. Most of the speakers considered that the report of the Ad Hoc Working Group (E/CN.4/1188) was an impartial, objective and impressive document containing accurate information, which revealed that violations of human rights and fundamental freedoms, including the methodical application of torture, were continuing in Chile. One representative thought that if the report was, perhaps, incomplete, the gaps might have been filled had the Group been allowed to visit Chile. Another representative said that his delegation could not endorse the report on account of its flaws and lack of objectivity, which he attributed to biased information submitted to the Group and to the fact that its inquiries were conducted outside Chile.

72. Deep regret and dissatisfaction were unanimously expressed at the sudden withdrawal by the Chilean Government of its initial invitation to the Group to visit Chile. Some speakers deplored the attitude of the Government of Chile towards the Group; such an attitude, they felt, was bound to delay the restoration of human rights and fundamental freedoms in Chile. One representative expressed the opinion that if the negative attitude of the Chilean Government continued, such attitude could be interpreted as self-incriminating.

73. It was generally agreed that the mandate of the Group should be extended as recommended in General Assembly resolution 3448 (XXX), and the Chilean authorities were urged to co-operate with the Group in a constructive dialogue which should lead to the revival of the invitation to the Group to visit Chile. One representative, however, stressed that he had no illusions concerning the possibility of co-operation between the Junta and the Group. The same representative reiterated his delegation's position, expressed at the thirty-first session of the Commission, regarding the non-application of the principle of equitable geographical distribution in the appointment of the members of the Ad Hoc Working Group; he nevertheless expressed his delegation's confidence that the Group would properly fulfil the task entrusted to it.

74. Most representatives deplored the continuation of mass violations of human rights and fundamental freedoms in Chile, particularly the denial of the right to life, freedom and personal integrity, the right to be free from arbitrary arrest, the right to freedom of thought and information and the right of assembly. The continuation of the state of siege was, in the view of many speakers, in itself an admission of the use of oppressive measures by the Government. Some representatives made special reference to the action taken by the Chilean authorities to intimidate and silence leaders of the Church who were involved in humanitarian activities. Special concern was expressed at the plight of the detainees and prisoners and their families. The extreme cruelty of the methods employed by organs of the State in torturing detained persons were, in the view of many representatives, the most abhorrent aspect of the violation of human rights in Chile. Some representatives expressed the view that the Commission should condemn the actions of the Government of Chile in the strongest terms, while others feared that categorical condemnation of the Chilean Government might impair the Commission's role in achieving the aim of restoring human rights in Chile.

75. Many representatives expressed grave concern about the fate of 13 Chilean personalities who, as reported, might be brought to trial before a military court and demanded their release as well as the release of all political detainees and prisoners. It was stressed that no one should be tried retroactively for acts that were not punishable at the time they were committed.

76. New legislative measures enacted by the Chilean Government and the release of a number of detainees, referred to in the memorandum of the Chilean Government (E/CN.4/1197), were welcomed by some representatives as steps in the right direction; others felt that it was premature to judge the effectiveness of those measures and their contribution to the restoration of human rights in Chile. Some representatives described the new legislation as designed to mislead public opinion and legitimize arbitrary arrests and detention.

77. The Observer for Chile, while stating that an emergency situation existed in Chile, stressed that his Government was doing its utmost to restore human rights and fundamental freedoms. He referred to recent legislative measures introduced by his Government, which he said represented considerable progress towards normalization. He alluded to the existence of a free press in Chile and said that, though there was separation of Church and State, the co-operation and relations between them were cordial. He asserted that a campaign of defamation against his country was being conducted on a large scale by countries unfriendly to Chile. With regard to co-operation between his Government and the Ad Hoc Working Group, he explained the reasons that had prompted the decision to cancel the visit of the Group to Chile, and indicated that his Government might be ready to co-operate with the Ad Hoc Working Group in order to establish procedures that would enable the Group to fulfil its mandate and the Government of Chile to co-operate with it.

78. At the 1359th meeting, the Commission, acting on a proposal made by the representative of Yugoslavia, decided without a vote to authorize its Chairman to address a telegram to the Government of Chile urging it to desist from holding the contemplated military trial of 13 Chilean personalities and to release them without further delay.

79. For the text of the telegram see chapter XX, section B, decision 1 (XXXII).

80. At the 1359th meeting the representative of Yugoslavia introduced a draft resolution (E/CN.4/L.1317) sponsored by Austria, Cuba, Cyprus, Senegal, the United Kingdom of Great Britain and Northern Ireland, Upper Volta and Yugoslavia, later joined by Bulgaria, the Byelorussian Soviet Socialist Republic and the Union of Soviet Socialist Republics.

81. At the same meeting the representative of Costa Rica submitted an amendment (E/CN.4/L.1318) to the draft resolution.

82. In the course of the debate on the draft resolution and the proposed amendment, a number of representatives, while expressing support for the draft resolution, felt that the Commission should concern itself with matters pertaining to human rights not only in Chile but also in other countries where violations of human rights took place.

83. At the 1360th meeting the representative of Costa Rica withdrew his amendment (E/CN.4/L.1318).

84. At the same meeting the Director of the Division of Human Rights made a statement concerning the administrative and financial implications of draft resolution E/CN.4/L.1317; the statement was subsequently distributed as document E/CN.4/L.1322.

85. At the 1360th meeting, on 19 February 1976, draft resolution E/CN.4/L.1317 was adopted by 26 votes to 2, with 4 abstentions.

86. For the text of the resolution see chapter XX, section A, resolution 3 (XXXII).

Being also guided by the desire to make its contribution to international co-operation in the implementation of the principles set forth in the International Covenants on Human Rights,

1. Takes note of the fact that the International Covenant on Economic, Social and Cultural Rights entered into force in January 1976 and that the International Covenant on Civil and Political Rights and the Optional Protocol thereto have already been ratified by the required number of States and will enter into force in March 1976;

2. Invites all Member States to consider the question of the ratification of the International Covenants on Human Rights in the near future;

3. Requests the Secretary-General to inform the Commission on Human Rights at each session of any new developments with regard to ratification and implementation of the International Covenants on Human Rights.

B. Decisions

1 (XXXII). Telegram to the Government of Chile 28/

The Commission decided to authorize its Chairman to address the following telegram to the Government of Chile:

"On behalf of the members of the United Nations Commission on Human Rights and as Chairman of the Commission at its thirty-second session, I have been authorized to send the following telegram to your Government:

'The Commission on Human Rights recalls the telegram that was sent on its behalf by its Chairman on 1 March 1974 to the Government of Chile in which, inter alia, the release of some notable Chilean personalities was requested. The Commission, noting that while others mentioned in that telegram are no longer in detention, Luis Corvalán and Pedro Felipe Ramírez continue to be held in detention, expresses its profound concern on being informed that José Cademartori, Luis Corvalán, Fernando Flores, Alfredo Joignant, Leopoldo Luna, Jorge Montes, Tito Palestro, Aníbal Palma, Pedro Felipe Ramírez, Eric Schnake, Andrés Sepúlveda, Daniel Vergara and Sergio Vuskovic, who have been in detention for over two years, are likely to be brought to trial before a military tribunal. The Commission urges the Government of Chile to desist from holding the contemplated military trials and to release the above-mentioned persons without further delay.'"