

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

149. The Commission considered agenda item 5 at its 1418th to 1423rd meetings, from 7 to 9 March 1977.

150. In its resolution 3 (XXXII) of 19 February 1976, the Commission had decided to consider at its thirty-third 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 3448 (XXX) of 9 December 1975, extended the mandate of the Ad Hoc Working Group established under Commission resolution 8 (XXXI) of 27 February 1975 to inquire into the present situation of human rights in Chile. It requested the Group to report to the General Assembly at its thirty-first session and to the Commission on Human Rights at its thirty-third session on the situation of human rights in Chile, in particular, any developments, legislative or otherwise, which might occur to re-establish respect for human rights and fundamental freedoms, in implementation of General Assembly resolution 3448 (XXX) and all other relevant resolutions and decisions of the United Nations.

151. 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 exercise 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 Diéye (Senegal) and Mrs. M.J.T. Kamara (Sierra Leone). Since the Chairman-Rapporteur of the Working Group was unable, for reasons of health, to participate in the meetings held in January 1977, the Group elected Mr. Leopoldo Benites Acting Chairman-Rapporteur.

152. In its resolution 3 B (XXIX), entitled "Question of the human rights of persons subjected to any form of detention or imprisonment", adopted on 31 August 1976, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, inter alia, requested the Commission on Human Rights at its thirty-third session, taking into account the report of the Ad Hoc Working Group, to take further steps to put an end to the flagrant and mass violations of human rights in Chile. It further asked the Secretary-General to invite the international organizations concerned to inform the Commission at its next session of their recent activities regarding human rights in Chile so that the Commission might take such information into account when dealing with this question.

153. The Ad Hoc Working Group submitted its report to the General Assembly at its thirty-first session in document A/31/253. The General Assembly, after considering the question of human rights in Chile, adopted resolution 31/124 on 16 December 1976, in which, after concluding that constant and flagrant violations of basic human rights and fundamental freedoms continued to take place in Chile, it inter alia invited the Commission on Human Rights: (a) 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-second session, and to the Commission at its

thirty-fourth session, with such additional information as might be necessary; (b) to formulate 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; (c) to consider the consequences of the various forms of aid extended to the Chilean authorities.

154. The Commission had before it the following documentation:

(a) The report of the Ad Hoc Working Group to the General Assembly at its thirty-first session (A/31/253);

(b) The report of the Ad Hoc Working Group to the Commission on Human Rights at its thirty-third session, which supplements the Group's report to the General Assembly (E/CN.4/1221);

(c) Information received from international organizations regarding their recent activities that relate to human rights in Chile (E/CN.4/1232 and Add.1-3 and Add.2/Corr.1);

(d) Letter dated 9 February 1977 from the Deputy Permanent Representative of Chile to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights (E/CN.4/1246);

(e) Observations of the Government of Chile on the report of the Ad Hoc Working Group to the Commission on Human Rights at its thirty-third session (E/CN.4/1247 and Add.1-3).

(f) Observations of the Government of Chile on the report of the Ad Hoc Working Group to the General Assembly at its thirty-first session (A/C.3/31/6 and Add. 1);

(g) Letter dated 30 September 1976 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/31/4);

(h) Letter dated 30 September 1976 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/31/5);

(i) Letter dated 10 November 1976 from the Delegate of the International Committee of the Red Cross to International Organizations addressed to the Secretary-General (A/C.3/31/10);

(j) Letter dated 16 November 1976 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/31/11);

(k) Letter dated 19 November 1976 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/31/12);

(l) Letter dated 30 November 1976 from the Acting Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the Secretary-General (A/C.3/31/13);

(m) Letter dated 3 December 1976 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/31/14);

(n) Written statement submitted by the World Peace Council, a non-governmental organization (Roster) (E/CN.4/NGO/201);

(o) 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 thirty-first session (A/C.3/31/SR.45-48 and 54-59).

155. The Commission heard statements by the observers for Argentina (1420th and 1422nd meetings), Brazil (1420th meeting), Chile (1419th, 1420th and 1421st meetings), the German Democratic Republic (1421st meeting) and Hungary (1421st meeting).

156. At the 1422nd meeting, the observers for the following non-governmental organizations in consultative status addressed the Commission: International Confederation of Free Trade Unions, International Youth and Student Movement for the United Nations, Inter-Parliamentary Union, Women's International Democratic Federation, World Federation of Trade Unions, International Association of Democratic Lawyers, International Commission of Jurists, Pax Romana, Socialist International, International Union of Students, World Peace Council.

157. At the 1418th meeting the alternative representative of Senegal, a member of the Ad Hoc Working Group, introduced the Group's report (E/CN.4/1221) in the absence of the Chairman-Rapporteur and Acting Chairman-Rapporteur of the Group.

158. Most of the speakers expressed appreciation to the Ad Hoc Working Group for its report, which they found to contain an impartial, objective and accurate description of the situation of human rights in Chile in spite of the difficult circumstances in which it had had to be prepared. The written and oral observations of the Government of Chile, they felt, had done nothing to place in doubt the over-all accuracy of the report.

159. Many representatives expressed concern over the continued practice of torture and the increasing number of missing persons in Chile. While noting that some positive steps had been taken by the Government of Chile, like the release of some political detainees, they felt nevertheless that the situation continued to cause great concern. The Group's report had shown that no substantial progress had in fact been achieved in the field of human rights and revealed a continuing and systematic pattern of violations of human rights by the military authorities.

160. Other representatives stated that there had been no improvement in the human rights situation in Chile and noted that, on the contrary, there was continued violation of all fundamental human rights, particularly the institutionalized practice of torture, and an intensification of repression through which the Government was aiming to eliminate from national life individuals holding certain opinions. The view was expressed that external economic support was still being given to the Chilean Government by certain countries in spite of the violations of human rights in that country and that this support came from the same sources which had conspired to overthrow the previous democratically elected government.

161. One representative stated that the main characteristics of the situation in Chile, i.e. torture, missing persons and political assassinations, were also to be found in some other countries of that region. The representatives of the States referred to rejected these charges.

162. It was generally agreed that the mandate of the Group should be extended, as recommended in General Assembly resolution 31/124. In this regard, most speakers expressed regret that the Group had not yet been permitted to visit Chile as called for by its mandate and as the Government of Chile had undertaken to permit. The hope was expressed that this visit would take place in the near future, which would enable the Group to verify its information more closely and contribute more directly to the achievement of the Group's objectives.

163. Some representatives attributed, at least in part, the reported improvements in the situation of human rights in Chile to the concern shown by the Commission and its Working Group. One representative expressed doubts as to the objectivity of the Working Group and stressed the progress achieved by the Chilean Government and its constant co-operation with the United Nations.

164. The observer for Chile stated that his Government agreed that the Commission had authority to deal with all violations of human rights and had, therefore, never raised an objection based on the argument of interference in the internal affairs of States. His Government, however, did object to the methods used by the Group, for instance in not giving a fair opportunity to his Government to investigate and to reply in respect of some cases quoted in the Group's report. He claimed that the report was not objective as regards either the sources of its information or the selection of the information it used. While maintaining his country's right to freely determine its own social and cultural system and to take all measures to solve the serious problems facing it, the representative of Chile recorded his Government's willingness to continue its co-operation with the Commission.

165. At the 1420th meeting the representative of Sweden introduced a draft resolution (E/CN.4/L.1355) sponsored by Austria, Cuba, Cyprus, Italy, Rwanda, Sweden, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Yugoslavia. The following countries subsequently joined the sponsors: Bulgaria, Byelorussian Soviet Socialist Republic, Union of Soviet Socialist Republics.

166. At the 1422nd meeting the Secretary of the Commission made a statement concerning the administrative and financial implications of draft resolution E/CN.4/L.1355; the statement was subsequently distributed as document E/CN.4/L.1364. One delegation stated that it reserved its position on the financial implications as submitted.^{15/}

167. The draft resolution (E/CN.4/L.1355) was voted on at the 1422nd meeting, on 9 March 1977. At the request of the representative of Panama, a separate roll call vote was taken on operative paragraph 8 of the draft resolution.

168. Operative paragraph 8 was adopted by 29 votes to 1, with 2 abstentions. The voting was as follows:

In favour: Austria, Bulgaria, Byelorussian SSR, Canada, Cuba, Cyprus, Ecuador, Egypt, Germany (Federal Republic of), India, Iran, Italy, Jordan, Lesotho, Libyan Arab Republic, Nigeria, Pakistan, Panama, Rwanda,

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

Senegal, Sweden, Syrian Arab Republic, Turkey, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Upper Volta, Yugoslavia.

Against: Uruguay.

Abstaining: Costa Rica, Peru.

169. Draft resolution E/CN.4/L.1355 as a whole was voted on by roll call at the request of the representative of Cuba. It was adopted by 26 votes to 1, with 5 abstentions. The voting was as follows:

In favour: Austria, Bulgaria, Byelorussian SSR, Canada, Cuba, Cyprus, Egypt, Germany (Federal Republic of), India, Iran, Italy, Lesotho, Libyan Arab Republic, Nigeria, Pakistan, 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, Upper Volta, Yugoslavia.

Against: Uruguay.

Abstaining: Costa Rica, Ecuador, Jordan, Panama, Peru.

170. For the text of the resolution, see chapter XXI, section A, resolution 9 (XXXIII).