

III. QUESTION OF HUMAN RIGHTS IN CHILE

29. The Commission considered agenda item 5 at its 1555th and 1559th and 1563rd meetings held from 25 February to 29 February 1980.

30. By its resolution 11 (XXXV) of 6 March 1979, the Commission had decided to consider at its thirty-sixth session, as a matter of high priority, the question of the violation of human rights in Chile. The Commission had authorized its Chairman, in accordance with General Assembly resolution 33/175 of 20 December 1978, to appoint Mr. Abdoulaye Dieye as Special Rapporteur on the situation of human rights in Chile, who on the basis of the mandate in Commission resolution 8 (XXXI) of 27 February 1975 and in contact with Chilean authorities was to inquire into the present situation of human rights in Chile and report to the General Assembly at its thirty-fourth session and to the Commission on Human Rights at its thirty-sixth session.

31. By the same resolution, the Commission authorized its Chairman to appoint as experts, in their individual capacity, Mr. Félix Ermacora and Mr. Waleed M. Sadi to study the question of the fate of missing and disappeared persons in Chile. In August 1979, Mr. Waleed M. Sadi resigned his appointment as expert to study the fate of disappeared persons.

32. By resolution 33/174 of 20 December 1978, the General Assembly decided to establish a voluntary fund, called the United Nations Trust Fund for Chile, for the purposes stated in paragraph 1 of that resolution.

33. The Special Rapporteur had submitted his report (A/34/583) to the General Assembly. The expert had also submitted through the Special Rapporteur, his report to the General Assembly.

34. By resolution 34/179 of 17 December 1979, the General Assembly expressed its grave concern about the deterioration in the situation of human rights in Chile in certain areas and requested the Commission on Human Rights to study thoroughly at its thirty-sixth session the reports of the Special Rapporteur and the report of the Expert on missing and disappeared persons and to continue to give close attention to the situation in Chile. To that end, it invited the Commission to extend the mandate of the Special Rapporteur in accordance with paragraph 6 of Commission resolution 11 (XXXV).

35. The Commission had before it the following documents:

(a) The report of the Special Rapporteur to the General Assembly at its thirty-fourth session (A/34/583);

(b) The report of the Experts on missing and disappeared persons to the General Assembly at its thirty-fourth session (A/34/583/Add.1);

(c) The report of the Secretary-General to the General Assembly at its thirty-fourth session on the United Nations Trust Fund for Chile (A/34/558/Add.1);

(d) A document sent to the Secretary-General by the Permanent Representative of Chile to the United Nations entitled "Consideration of the Government of Chile on the examination of the present situation of human rights in the country" (A/C.3/34/112);

(e) The report of the Special Rapporteur to the Commission on Human Rights at its thirty-sixth session (E/CN.4/1362);

(f) The report of the Expert on the question of disappeared persons in Chile to the Commission on Human Rights at its thirty-sixth session (E/CN.4/1363 and E/CN.4/1391);

(g) The report submitted by the Chairman of the Board of Trustees of the United Nations Trust Fund for Chile on behalf of the Board to the Commission on Human Rights at its thirty-sixth session on the operation of the Fund (E/CN.4/1364);

(h) A written statement submitted by the World Peace Council, a non-governmental organization in consultative status (Roster) (E/CN.4/NGO/261);

(i) A written communication submitted by the Inter-Parliamentary Union, a non-governmental organization in category I consultative status (E/CN.4/NGO/267);

(j) A report prepared by the International Commission for Jurists, a non-governmental organization in category II consultative status (E/CN.4/NGO/269);

(k) A written statement submitted by the Women's International Democratic Federation, a non-governmental organization in category I consultative status (E/CN.4/NGO/274).

36. The Commission heard statements by the observers for the German Democratic Republic (1558th meeting), Hungary (1558th meeting), and Chile (1558th meeting).

37. The representatives of the following non-governmental organizations in consultative status made statements: International Confederation of Free Trade Unions, International Indian Treaty Council, International Commission of Jurists, World Federation of Trade Unions, International League for Human Rights and International Union of Students.

38. At the 1535th meeting, the Chairman of the United Nations Trust Fund for Chile, Mr. Ghulam Ali Allana, introduced the report of the Board of Trustees (E/CN.4/1364). He stressed the role of the Fund in assisting, free from political considerations, the victims of violation of human rights and their relatives, inside and outside Chile. He expressed the hope that the Commission would appeal to Member States for contributions.

39. At the 1555th meeting the Special Rapporteur, Mr. Abdoulaye Dieye, introduced his report contained in document E/CN.4/1362, which updated the report submitted to the General Assembly (A/34/583). He expressed his regret that the Chilean authorities had refused to co-operate on the grounds that the special procedure was discriminatory, and rejected the reasons invoked by the Chilean Government, stating that the grave situation of human rights in Chile, recognized as such by various United Nations organs and expert committees, justified the special procedure. He added that an investigation should be carried out in other situations giving rise

to serious concern. He indicated that the situation of human rights in Chile had not improved and in a number of areas had even deteriorated, and referred in particular to the maintenance of the state of emergency, the lack of independence of the courts of law, the violations of the rights to life, personal freedom and security, physical and moral integrity, the wider powers given to the security forces as well as to legal and other measures designed to stabilize and legalize a situation that in many aspects is at variance with international instruments to which Chile is a party, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

40. At the same meeting, Mr. Félix Ermacora, Expert on the question of the fate of missing and disappeared persons in Chile introduced his report contained in documents A/34/583/Add.1, E/CN.4/1363, E/CN.4/1381. He also deplored the lack of co-operation from the Chilean authorities and explained that the study had been prepared taking into account only 669 - not all - of the cases of missing persons, in which information from reliable sources proved conclusively that the persons have been arrested by military or security forces and never seen again. He added that in his view the key to the fate of missing persons was to be found in the action of the governmental security agency, DINA. He stressed the responsibility of the State regarding disappearance, and listed a number of recommendations relating to measures that should be taken in national and international legislation and, more specifically, measures concerning missing persons in Chile.

41. Many speakers praised the reports submitted by the Special Rapporteur and the Expert for their impartiality and objectivity, and declared that their countries supported the recommendations contained in those reports.

42. Most of the speakers expressed grave concern about a deterioration of the situation of human rights in a number of areas, compared with that described in the last report of the Ad Hoc Working Group. Statements were made by some speakers about the increase in the number of cases of arbitrary arrest and detention, the deaths reported to have occurred for political reasons, and the persecution to which many persons had been subjected. They mentioned the increasing powers of the security agencies, the existence of secret places of detention, the use of torture for the interrogation of detainees, and treatment during arrest and the detention. Some speakers said that there was a climate of intimidation and terror within the country and that irregularities and arbitrariness continued to be the general rule. Others stated that flagrant and massive violations of human rights, especially torture, were engaged in more as a matter of policy than as an exception. A number of speakers, however, did not agree with the view that the human rights situation in Chile had deteriorated but saw improvements in certain sectors. Some delegates also expressed reservations at the special procedure applied against Chile which was not being used against human rights violations of similar or greater importance in other countries.

43. Mention was repeatedly made of the lack of fundamental civil and political rights, such as the right to vote and the right to express opinions without interference. Some speakers referred to the state of emergency that had remained in force since 1973, despite several United Nations resolutions requesting the Chilean Government to put an end to it.

44. Some representatives drew the attention of the Commission to the denial, to

many Chilean citizens, of the right to live in their own country, as well as the right to enter, stay in and leave it. They mentioned several cases of persons deprived of those rights, even when urgent humanitarian reasons were invoked.

45. Many speakers expressed their concern also about the situation with respect to the rights of assembly and association, trade union rights, and the economic and social situation of wide sectors of the population and the lack of effective legal remedies. They also mentioned the situation of the indigenous population, whose culture was threatened as a result of new legislation concerning their property and official policies concerning their status.

46. Most of the representatives expressed their grave concern at the problem of thousands of missing and disappeared persons. Some welcomed the fact that no new disappearances had been reported during 1978 and 1979, although the problem remains, since the fate of over 600 persons is still unknown. Many representatives stressed that the international community must request the Chilean Government to give explanations concerning the fate of those persons. Some delegations suggested the use of the new procedure on disappearance as an alternative method of handling the problem in Chile.

47. Many speakers expressed the view that the Commission should continue to give close attention to the question of human rights in Chile and urge the Chilean authorities to respect human rights, in accordance with international instruments. One representative indicated that the consistent activities of the United Nations must achieve a positive result. Another delegation stated that further work on missing persons in Chile should be carried out by the Special Rapporteur.

48. The need for concrete measures aimed at alleviating the suffering of persons whose human rights have been violated was also emphasized. Appeals for contributions to the Trust Fund for Chile were made by several delegations.

49. At its 1558th meeting the observer for Chile repeated the objections of his Government against special ad hoc procedures. He added that the Chilean Government had co-operated with the Ad Hoc Working Group for a long time, even after it had been convinced of its inefficiency. That inefficiency was attributable to the fact that its members came from different regions of the world and, therefore, were not aware of the particular conditions existing in Chile. In seeking information these persons interfered in matters reserved to the sovereignty of the State concerned, and created new problems instead of solving them. Such procedures created a dangerous precedent, serving as means for interference in the internal affairs of small countries. The report of the Special Rapporteur tried to show that the Chilean Government had destroyed the economic and cultural bases of the country, whereas the facts were quite different. The observer for Chile cited a number of statistics concerning economic and social achievements of the present Government and said that they were confirmed in reports and documents published by international organizations such as the World Bank, the International Monetary Fund, the Interamerican Bank for Development, the Economic Commission for Latin America and the Organization of American States. He called attention to the fact that no cases of missing or disappeared persons had been reported since May 1977 and rejected the evidence contained in the report of the Experts on the fate of missing persons concerning the responsibility of the Government for disappearances. In conclusion, he stated that Chile would persist in its refusal to accept ad hoc procedures and special entities, created without the previous consent of the country involved but

would collaborate with an international organization or specialized institution of a technical or humanitarian nature which applied general procedures.

50. At the 1559th meeting, replying to the statement made by the observer for Chile, the Special Rapporteur Mr. Abdoulaye Dieye stated that the special procedure to investigate the situation of human rights in Chile had been established in full agreement with the Chilean Government, including the composition of the Ad Hoc Working Group. He added that while in Chile, in 1978, the Group had investigated the situation as thoroughly as it could. Therefore, the comments about inefficiency and ignorance of the conditions within the country lacked substance. He noted that the observer for Chile referred to actual human rights problems in his country in a very vague manner, and had not in his reply refuted the findings contained in the report. Furthermore, the observer for Chile had merely cast aspersions on the report without bothering to provide specific answers to the serious charges made against his Government. He reaffirmed that he had prepared his report in the light of principles contained in the pertinent international instruments and in strict compliance with the mandate that had been entrusted to him by the Commission on Human Rights.

51. At the 1556th meeting, the representative of Denmark introduced a draft resolution (E/CN.4/L.1486) which was co-sponsored by the Netherlands. Algeria, Cuba and Yugoslavia submitted amendments to the draft resolution (E/CN.4/L.1511).

52. At the 1563rd meeting on 29 February 1980, Iraq introduced oral amendments to the revised draft resolution submitted by Denmark and the Netherlands (E/CN.4/L.1486/Rev.1). The sponsors of the draft resolution accepted the amendments.

53. A statement on the administrative and financial implications of the draft resolution was brought to the attention of the Commission (E/CN.4/L.1487). 1/

54. The representative of Costa Rica requested a roll-call vote on the draft resolution as amended, which was adopted by 29 votes to 3, with 10 abstentions. The voting was as follows:

In favour: Algeria; Australia; Bulgaria; Burundi; Byelorussian Soviet Socialist Republic; Canada; Cuba; Cyprus; Denmark; Ethiopia; France; Germany, Federal Republic of; Ghana; Greece; India; Iran; Iraq; Mongolia; Morocco; Netherlands; Poland; Portugal, Senegal; Syrian Arab Republic; Union of Soviet Socialist Republics; United Kingdom of Great Britain and Northern Ireland; United States of America; Yugoslavia; Zambia.

Against: Argentina; Brazil; Uruguay.

Abstaining: Colombia; Costa Rica; Egypt; Ivory Coast; Jordan; Nigeria; Pakistan; Panama; Peru; Philippines.

55. Statements in explanation of vote were made by the representatives of Algeria, Argentina, Brazil, Canada, Costa Rica, Cuba, Egypt, France, the Federal Republic of Germany, the Soviet Union, the United Kingdom, the United States of America, and Uruguay.

56. For the text of the resolution, see Chapter XXVI, section A, resolution 21 (XXXVI).

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