

Rights and other international organs to re-establish human rights and fundamental freedoms have been ignored by the Chilean authorities,

Considering further, *inter alia*, the recent reports, resolutions and conclusions of the Human Rights Committee, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the International Labour Organisation, as well as the Chilean Human Rights Committee and the Vicaría de la Solidaridad of the Catholic Church in Chile,

Recognizing the importance of the fact that the Chilean authorities have announced their intention to permit the entry into Chile of the Special Rapporteur, in the exercise of his mandate, to investigate the situation of human rights in that country,

1. Takes note of the preliminary report of the Special Rapporteur on the situation of human rights in Chile, submitted in accordance with Commission on Human Rights resolution 1985/47;¹⁹¹

2. Once again expresses its dismay at the suppression in Chile of the traditional democratic legal order and its institutions and their replacement by a constitution which does not reflect the freely expressed will of the people and whose provisions considerably restrict the enjoyment and exercise of human rights and fundamental freedoms through the institutionalization and consolidation of states of emergency and the extension of the jurisdiction of the military tribunals, all of which amounts to an integrated system negating civil and political rights and freedoms;

3. Expresses its indignation at the persistence of serious and systematic violations of human rights in Chile, in particular the suppression of social protests which has caused a considerable number of deaths and injuries and mass and individual arrests, at the intimidation of national human rights organizations, at the frequent reports of torture and ill-treatment, and at the treacherous crimes in which the police forces are judicially implicated;

4. Reiterates its alarm at the fact that, in general, the arbitrary or improper actions of the State police and security agencies continue to go unpunished;

5. Reiterates its concern at the ineffectiveness of the remedies of *habeas corpus* or of *amparo* and of protection, owing to the fact that the judiciary, notwithstanding some positive actions in this field, does not always exercise its powers of investigation, monitoring and supervision in this respect, and performs its functions under severe restrictions which undermine its independence;

6. Once again calls urgently upon the Chilean authorities to restore and respect human rights in accordance with the obligations they have assumed under various international instruments, so as to re-establish the principle of legality, democratic institutions and the effective enjoyment and exercise of human rights and fundamental freedoms, and, in particular:

(a) To put an end not only to the state of seige, as was done in June 1985, but also to the régime of exception and especially the practice of declaring "constitutional states of emergency" under which serious and continuing violations of human rights are committed;

(b) To investigate and clarify without delay the fate of persons who were arrested for political reasons and later disappeared, to assist and inform their families of the results of such investigation and to bring to trial and punish those responsible for their disappearance;

(c) To respect the right to life and the right to physical and moral integrity by putting an end to the practice of torture and other cruel, inhuman or degrading treatment

or punishment and to put an immediate end to intimidation and persecution as well as to kidnappings, arbitrary or abusive detention and imprisonment in secret places;

(d) To respect the right of nationals to live in and freely enter and leave their country, without arbitrary restrictions or conditions, and to cease the practice of *relegación* (assignment to forced residence) and forced exile;

(e) To restore the full enjoyment and exercise of labour rights, including the right to organize trade unions, the right to collective bargaining and the right to strike, to put an end to the suppression of the activities of trade union leaders and their organizations and to comply with the provisions of the international agreements of the International Labour Organisation to which Chile has subscribed;

(f) To respect and, where necessary, restore economic, social and cultural rights, in particular the rights intended to preserve the cultural identity and improve the economic and social status of the indigenous populations, including the right to their land;

7. Concludes, on the basis of the preliminary report of the Special Rapporteur and of other data at its disposal, that it is necessary to continue to monitor the human rights situation in Chile;

8. Expresses its conviction that an unrestricted, *in situ* investigation of the human rights situation in Chile requires that the Special Rapporteur, in fulfilment of his mandate, should have access to all the information and data which could be provided by those persons and bodies that are interested in the situation of human rights in Chile;

9. Requests the Chilean authorities to co-operate more fully with the Special Rapporteur and to submit their comments on his report to the Commission on Human Rights at its forty-second session;

10. Invites the Commission on Human Rights, at its forty-second session, to proceed to an in-depth consideration of the report of the Special Rapporteur and, taking account of all the relevant information at its disposal, to adopt the most appropriate measures for the effective restoration of human rights and fundamental freedoms in Chile, including the extension of the mandate of the Special Rapporteur, and requests the Commission to report to the General Assembly at its forty-first session, through the Economic and Social Council.

116th plenary meeting
13 December 1985

40/146. Human rights in the administration of justice

The General Assembly,

Convinced of the need for further co-ordinated and concerted action in promoting respect for human rights in the administration of justice,

Guided by the principles embodied in articles 3, 5, 9, 10 and 11 of the Universal Declaration of Human Rights,⁶ as well as the relevant provisions of the International Covenant on Civil and Political Rights,⁷ in particular article 6, which explicitly states that no one shall be arbitrarily deprived of his life,

Bearing in mind its resolutions 2858 (XXVI) of 20 December 1971 and 3144 (XXVIII) of 14 December 1973 on human rights in the administration of justice,

Recalling Economic and Social Council resolutions 1984/47 and 1984/50 of 25 May 1984, in which, *inter alia*, the Council approved the procedures for the effective

¹⁹¹ A/40/647, annex.

implementation of the Standard Minimum Rules for the Treatment of Prisoners¹⁹² and the safeguards guaranteeing protection of the rights of those facing the death penalty.

Bearing in mind also the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁷²

Considering the work in progress with regard to the draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment,

Recalling its resolution 39/118 of 14 December 1984, in which, *inter alia*, it requested the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders to give urgent attention to the matter of devising ways and means to ensure more effective application of existing standards and to report thereon to the General Assembly at its fortieth session,

Acknowledging the important work accomplished by the Seventh Congress, in particular in relation to the formulation and application of United Nations standards and norms in the administration of justice under item 7 of its agenda,¹⁹³

1. *Deplores* the continued use of cruel, inhuman or degrading treatment or punishment, prohibited under international law, and strongly condemns the practice of summary or arbitrary executions;

2. *Welcomes* the Basic Principles on the Independence of the Judiciary, adopted unanimously by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,¹⁹⁴ and invites Governments to respect them and to take them into account within the framework of their national legislation and practice;

3. *Encourages* the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights, in giving further consideration to the question of the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, which is currently on its agenda, to take into account the Basic Principles adopted by the Seventh Congress in making final recommendations at its thirtieth session;

4. *Takes note with appreciation* of the Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners,¹⁹⁵ also adopted unanimously by the Seventh Congress, and invites Member States to take the Model Agreement into account in establishing treaty relations with other Member States or in revising existing treaty relations;

5. *Also takes note with appreciation* of the recommendations made by the Seventh Congress with a view to ensuring more effective application of existing standards, in particular the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials¹⁹⁶ and safeguards guaranteeing the rights of those facing the death penalty;

6. *Calls upon* Member States to spare no effort in providing for adequate mechanisms, procedures and resources so as to ensure the implementation of these recommendations, both in law and in practice;

7. *Requests* the Secretary-General to assist Member States, at their request, in implementing these recommendations and to report thereon to the Committee on Crime Prevention and Control;

8. *Requests* the Economic and Social Council, through the Committee on Crime Prevention and Control, to give special attention to effective ways and means of implementing existing standards, to pay due attention to new developments in this area and to keep these matters under constant review;

9. *Invites* the specialized agencies and other organizations of the United Nations system, as well as intergovernmental and non-governmental organizations concerned, to continue to co-operate with the Secretary-General in these endeavours by providing assistance, as may be appropriate, and by submitting proposals for relevant action to the Committee on Crime Prevention and Control;

10. *Decides* to consider at its forty-first session the question of human rights in the administration of justice.

*116th plenary meeting
13 December 1985*

40/147. Question of enforced or involuntary disappearances

The General Assembly,

Recalling its resolution 33/173 of 20 December 1978 concerning disappeared persons, and its resolution 39/111 of 14 December 1984 on the question of enforced or involuntary disappearances,

Deeply concerned about the persistence, in certain cases, of the practice of enforced or involuntary disappearances,

Expressing its profound emotion at the anguish and sorrow of the families concerned, who should know the fate of their relatives,

Convinced of the importance of implementing the provisions of its resolution 33/173 and of the other United Nations resolutions on the question of enforced or involuntary disappearances, with a view to finding solutions for cases of disappearances and helping to eliminate such practices,

Bearing in mind Commission on Human Rights resolution 1985/20 of 11 March 1985,³⁰ in which the Commission decided to extend for one year the term of the mandate of the Working Group on Enforced or Involuntary Disappearances, and Economic and Social Council decision 1985/142 of 30 May 1985, in which the Council approved the Commission's decision,

1. *Expresses its appreciation* to the Working Group on Enforced or Involuntary Disappearances for its humanitarian work and to those Governments that have co-operated with it;

2. *Welcomes* the decision of the Commission on Human Rights to extend for one year the term of the mandate of the Working Group, as well as to study at its forty-second session the possibility of extending to two years the term of the mandate of the Working Group;

3. *Also welcomes* the provisions made by the Commission on Human Rights in its resolution 1985/20 to enable the Working Group to fulfil its mandate with even greater efficiency;

4. *Appeals* to all Governments to provide the Working Group and the Commission on Human Rights with the full co-operation warranted by their strictly humanitarian objectives and their working methods based on discretion;

¹⁹² First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A.

¹⁹³ See Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report pre-

pared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. IV, sect. B.

¹⁹⁴ *Ibid.*, chap. I, sect. D.2.

¹⁹⁵ *Ibid.*, sect. D.1.

¹⁹⁶ Resolution 34/169, annex