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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Letter dated 18 November 1986 from the Permanent Representative of  
Chile to the United Nations addressed to the Secretary-General

The Chairman of the Third Committee announced today that the Special Rapporteur on the situation of human rights in Chile, Mr. Fernando Volio Jiménez, would not appear personally to introduce his report 1/ in the Committee.

He announced that instead a document bearing the symbol A/C.3/41/10 and containing the Special Rapporteur's introductory comments to the report would be circulated officially.

My delegation spoke at that meeting to say that we regretted the fact that the Special Rapporteur would not be present and that we would also request the Secretariat to distribute a document containing my country's preliminary observations regarding the report. We also requested that our observations should be circulated as an official document, following the same procedure as for the Special Rapporteur's introduction.

To that end, I am sending you our observations so that they may be officially circulated in the Third Committee as soon as possible.

(Signed) Pedro DAZA  
Ambassador  
Permanent Representative of Chile  
to the United Nations

Notes

1/ A/41/719, annex.

Annex

PRELIMINARY OBSERVATIONS OF THE CHILEAN GOVERNMENT REGARDING THE  
FIRST REPORT ON THE EVOLUTION OF THE HUMAN RIGHTS SITUATION  
DURING 1986, WHICH IN TURN CONSTITUTES THE THIRD REPORT OF THE  
SPECIAL RAPPORTEUR, MR. FERNANDO VOLIO JIMÉNEZ

A. Observations of a procedural nature

The Chilean Government has continued to honour its commitment to co-operate with the United Nations system as such, through the Special Rapporteur appointed by the Commission on Human Rights, Professor Fernando Volio Jiménez.

It has done so in a manner described by the Special Rapporteur himself as consisting of "full, frank and open co-operation from the Government which increased steadily from 1 February 1985 when he first assumed his mandate". a/

Thus, the Special Rapporteur was able to visit Chile last December without encountering any obstacle whatsoever for as long as he felt necessary and in the manner he deemed pertinent. He was therefore able to gather all types of information, which he included in the second report issued in February this year. Upon concluding his visit to Chile, the Rapporteur fully acknowledged the co-operation he received, describing it as exemplary.

The Chilean Government, while publicly acknowledging the probity and seriousness of the Special Rapporteur, was not in agreement with parts of his report. It made this known in the preliminary observations submitted to the Commission on Human Rights on 6 March, as well as in the extensive reply which it transmitted to the Special Rapporteur on 14 June in San José, Costa Rica.

That reply, covering all the sections of the report and including much additional information, was, as already stated, made known in advance to the Special Rapporteur. He in turn made various observations regarding the wording and content which the Chilean Government welcomed at the time.

However, we must state with great frankness at this time that the results of this broad attitude of co-operation have so far been disappointing. The resolution adopted by the Commission on Human Rights last March went much further even than the contents of the Special Rapporteur's report. That consensus resolution, in which countries with a long tradition of democracy participated, together with others that have a debatable record in that regard, to say the least, reflected a profound distortion regarding not only the objective situation of Chile but also the ethical and procedural principles which ought to motivate the action of international bodies in such matters.

B. Comments on the report itself

It is only fair to state at this time that, from an objective point of view, it must be recognized that the present report is more objective and balanced than the previous one.

The co-operation provided by the Chilean Government is of course acknowledged amply in various parts. The report emphasizes the Government's intention to give due attention to questions regarding the observance of fundamental freedoms. It likewise stresses the "thoroughness and detail" h/ of the Government's reply, which constitutes another example of collaboration. In this regard, it is worth noting that anyone who has had the opportunity to analyse this reply in detail (more than 800 pages, including annexes) will agree that rarely in the history of the United Nations has a Government been so seriously concerned with the subject-matter.

The Special Rapporteur also recognizes, together with many facts of a positive character, omitted here for brevity's sake, that his requests of a humanitarian nature were welcomed by the Government and that the Government had taken numerous measures which he considered constructive and which he hoped would be followed by still more encouraging actions.

But perhaps the most important fact is that the Special Rapporteur recognizes in very broad and unequivocal terms the gravity of the terrorist-subversive escalation that increased in volume with the clandestine and massive importation of arms originating in the Soviet area and culminating in the bloody attempt to assassinate the President of the Republic. Responsibility for these deeds was publicly claimed in Chile and abroad by the so-called Manuel Rodríguez Patriotic Front, the armed branch of the Communist Party.

The Special Rapporteur's report is not the only source to recognize the seriousness of the terrorist-subversive escalation. Other sources, completely foreign to the Chilean Government, have recognized this in even more explicit terms, stating that everything indicates that preparations for a prolonged civil war are being made and, what is still more suggestive, "against a Government much weaker than the present one".

The Special Rapporteur's conclusion in his report is more eloquent than anything the Chilean Government can say at this time:

"At the time of drafting this report in September, the discovery of these arsenals is of enormous importance, because it seems to indicate an extremely dangerous scheme aimed at subverting any painstaking and tenacious search for peaceful and democratic means to protect human rights permanently and effectively under a democratic and representative system of government." c/

In brief, this is the essence of the problem affecting Chile: the undisguised objective of a super-Power to regain the power lost in 1973, thereby crushing the dogma of the irreversibility of the revolutionary processes; an aggression which has never ceased, with a magnitude and range only just beginning to be understood by democratic opposition sectors; a factor which has erected obstacles but has in

no case paralysed the institutional route established by the current Political Constitution approved by the great majority of the Chilean people in 1980.

The Chilean Government - and this can be said very emphatically, here and everywhere else - has never departed from the terms of the Fundamental Charter which is binding on it as well as on those whom it governs.

The Special Rapporteur also recognizes that the Government's political plan will be implemented at last; in this respect, he has been informed in detail since he assumed his mandate of the steps that are being taken in this regard, which culminated in the broad and formal invitation to all democratic political sectors to analyse the two fundamental laws involved.

Firstly, the Political Parties Act which, once promulgated early next year, will establish the legal existence, legal capacity and representative nature of all the democratic political movements; it will enable them to maintain a dialogue with the Government on a different and better basis than at present, so that any agreements reached will rest on a more solid foundation. The Electoral Law, for its part, will be the means enabling the distinct political currents to contend legitimately for power.

That in consequence is the importance of these Laws. They are decisive for initiating any type of transcendent political dialogue. The democratic sectors are gradually beginning to understand this.

The Special Rapporteur has also been informed of recent measures which have resulted in an appreciable improvement in the human rights situation and which conform to his recommendations.

In short, the Chilean Government's co-operation with the Special Rapporteur is reflected not only in the extensive facilities provided for his mission but also in the measures being adopted, of which he is the first to be informed.

#### C. Parts of the report giving rise to objections on the part of the Chilean Government

As already stated, although the present report is more balanced and objective than the previous one, it still includes some views and certain value judgements with which the Government cannot agree.

The principal points are the following: first, the terms of the dialogue carried on up to the time when the report was written, at the beginning of September, are described as insufficient. It is to be hoped, in view of the Rapporteur's objectivity, that this opinion will not be maintained in current circumstances.

With reference to the situation of persons temporarily prevented from entering the country, he states that no material progress has been made. The comment in the preceding paragraph also applies to this statement, which was written in September,

shortly after the attempt to assassinate the President of the Republic made it necessary to suspend the very concrete measures that were to be adopted in this regard. Recently, however, the Government decided to continue its policy in order to solve the problem once and for all. Thus the Ministry of the Interior has accepted 200 pending appeals for reconsideration and ordered the broadening of the powers of its Advisory Commission on matters of unlawful coercion and terrorism. It has also arranged for the immediate transfer to the Commission of several hundred more cases which, because of their humanitarian characteristics, require more rapid attention.

With reference to the activities of the courts of justice, on which numerous unsatisfactory views are expressed, it must first be said that there is a lack of due consideration of the very precise facts cited in the reply, such as the large number of injunctions issued by the Ministry of the Interior against opposition elements and rejected by the courts in decisions with which the Executive invariably complies. Also lacking is a reference to the appeals for protection accepted by various Appeals Courts against actions of administrative authorities. This is a matter of considerable importance, since this procedure was created precisely by this Government.

The report also maintains, without going into greater detail, the erroneous concept that the Office of the Controller General of the Republic has lost its inspection authority. This was the result of a misunderstanding which occurred at the Rapporteur's meeting with the Controller and Assistant Controller of the Republic during his visit to Chile.

Like the previous report, the latest one cites a considerable number of accusations about alleged actions of the police and security authorities, but now it cites them simply as facts, without passing judgement on their merits. The Chilean Government will make a detailed report in this regard as part of its report to the Commission on Human Rights.

Finally, the most controvertible observation is that "... as these conclusions are being written, the human rights situation in Chile continues to be a source of great concern because the system is not democratic, and only representative democracy guarantees respect for freedoms". d/ Although it is true that the Rapporteur later balances this concept somewhat by calling on the Government and the opposition groups to reach an understanding, with the former bearing the greater burden of responsibility the following comments must be made.

The Political Constitution establishes very clearly the route to be followed to reach full democracy and that route is being exactly followed; but, as the Rapporteur himself says, not only the will of the Government is required but also that of the democratic opposition if the pace is to be accelerated. For that reason, the Rapporteur's entire appeal can only be welcomed by all who desire the continuation of the process of full restoration of democracy in Chile.

Notes

a/ A/41/719, annex, para. 8.

b/ Ibid., para. 44.

c/ Ibid., para. 72.

d/ Ibid., para. 82.

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