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

Study of the impact of foreign economic aid and  
assistance on respect for human rights in Chile

Progress report prepared by Mr. Antonio Cassese,  
Rapporteur appointed by the Sub-Commission on  
Prevention of Discrimination and Protection  
of Minorities

	<u>Paragraphs</u>	<u>Page</u>
Introduction .....	1 - 5	2
I. Nature of the progress report .....	6 - 9	3
II. Scope of the study .....	10 - 18	4
III. Procedure for the preparation of the study .....	19 - 28	7
IV. Annotated Proposed Outline .....	29 - 41	8
A. General survey of foreign economic assistance to Chile .....	29 - 30	8
B. Specific economic, social and cultural rights on which foreign economic assistance may have a direct bearing .....	31 - 36	8
C. The relation between foreign economic assistance and the enjoyment of civil and political rights ....	37 - 41	9

Annex: Tentative table of contents of final report

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## INTRODUCTION

1. In paragraph 6 of resolution 9 (XXXIII) adopted 9 March 1977, the Commission on Human Rights at its thirty-third session requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study on the consequences of the various forms of aid extended to the Chilean authorities and to present a progress report thereon to the Commission at its thirty-fourth session.
2. In compliance with the request of the Commission on Human Rights, the Sub-Commission at its thirtieth session, on 31 August 1977, adopted resolution 11 (XXX) entitled "Study of certain questions relating to the situation of human rights in Chile" by which, in Part I, it decided to undertake a study of the consequences of the various forms of aid extended to the Chilean authorities, and appointed Mr. Antonio Cassese Rapporteur to prepare such a study. The Sub-Commission requested the Rapporteur to analyse the volume, origins, development and significance of the assistance given to the present régime in Chile, to study whether a quantitative or qualitative change in the aid now being given might contribute to restoring respect for human rights in Chile, and to submit a progress report on his work to the Commission on Human Rights at its thirty-fourth session. By the same resolution the Secretary-General was requested to give the Rapporteur all the assistance he may require in his work, including relevant information from reliable sources.
3. It may be recalled that on 31 August 1976 the Sub-Commission had adopted resolution 3 (XXIX), which in Part B, at paragraph 6, invited the Commission on Human Rights to consider the adverse consequences for the enjoyment of human rights of the various forms of aid and assistance being given to the "Chilean régime".
4. On 16 December 1976, the General Assembly at its thirty-first session, in resolution 31/124, inter alia, invited the Commission on Human Rights to consider the consequences of the various forms of foreign aid to the Chilean authorities.
5. It may be noted that the Ad Hoc Working Group originally established by Commission resolution 8 (XXXI) to enquire into the situation of human rights in Chile included in its most recent report to the General Assembly (A/32/227, paras. 232-239) its observations on the connexion between the reported violations of human rights in Chile and the volume of external economic aid to Chile.

## I. NATURE OF THE PROGRESS REPORT

6. No one will dispute that the Rapporteur is confronted with an arduous task. The novelty of the approach to the study requested by the Sub-Commission, the consequent need to devise a suitable methodology, the intricate relationship between foreign economic assistance and human rights, on the one hand, and between economic, social and cultural rights and civil and political rights, on the other, and the difficulty of collecting reliable information, all contribute to making the preparation of this study a difficult and complex undertaking.

7. The Rapporteur started his work by drawing up a tentative outline of the Report in which he pinpointed the major areas of his prospective study. At the same time, and with the assistance of the United Nations Secretariat, he requested States, intergovernmental organizations and other institutions to provide relevant information and documentation.

8. At the time of the submission of this progress report, few replies had as yet been received by the Rapporteur. In view of the paucity of the available documentation, the Rapporteur considered it appropriate to avoid dealing with substantive issues in the progress report. In his opinion, a different course of action would have led to a selective treatment of certain aspects of the subject which might also have been insufficiently corroborated by reliable information.

9. The Rapporteur has therefore chosen to concentrate on the methodology of the study in order to show the Commission on Human Rights how he intends to proceed, what issues he proposed to examine and the approach he intends to use in dealing with those issues. Naturally the Rapporteur will be guided by the views expressed during the discussion in the Commission and hopes that they will provide direction for the Rapporteur's future work.

## II. SCOPE OF THE STUDY

10. The terms of reference of this study are laid down in Sub-Commission Resolution 11 (XXX), which requested the Rapporteur "to analyse the volume, origins, development and significance of the assistance given to the present régime in Chile and to study whether a quantitative or qualitative change in the aid now being given might contribute to restoring respect for human rights in Chile".

11. This study should be viewed within the framework of the various United Nations activities being carried out for the purpose of restoring human rights in Chile. The Ad Hoc Working Group originally established by resolution 8 (XXXI) of the Commission on Human Rights to enquire into the situation of human rights in Chile continues to report to the Commission on Human Rights and to the General Assembly in accordance with the mandate entrusted to it; as requested by General Assembly resolution 31/124 and resolution 9 (XXXIII) of the Commission, reports have been submitted to the Assembly and to the Commission on steps which might be considered appropriate by Member States, specialized agencies and other international organizations as contributions to the restoration and safeguarding of human rights and fundamental freedoms in Chile; pursuant to resolutions of the General Assembly, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission will consider at its thirty-fourth session a report by the Secretary-General, prepared in accordance with Sub-Commission resolution 11 (XXX), containing suggestions relating to the proposal that a voluntary fund be established to distribute humanitarian, legal and financial aid to those detained or imprisoned in Chile, to those forced to leave the country, and to their relatives.

12. To identify his exact mandate the Rapporteur has considered it necessary to look into both the debates that preceded the adoption of resolution 9 (XXXIII) of the Commission on Human Rights, from which the Sub-Commission derives its authority in this specific area, and the debates which took place in 1977 in the Sub-Commission on the occasion of the adoption of the aforementioned resolution 11 (XXX). It is apparent from those debates as well as from the text of Sub-Commission resolution 11 (XXX) that the report entrusted to the Rapporteur should have the scope and purpose set forth in the following paragraphs.

13. First, the study should deal with the impact that foreign economic assistance may have on all human rights, be they civil and political, or economic, social and cultural. It stands to reason, however, that economic, social and cultural rights will receive primary emphasis in the study, because it is on these rights that foreign economic assistance have a more direct bearing. The Report cannot but focus on whether economic assistance granted by States and foreign institutions goes to the needy people. In other words, a main purpose of the study is to see whether such assistance is used to promote employment, to provide better housing and nutrition and to make education accessible to large segments of the population.

14. Although special emphasis will thus be placed on economic, social and cultural rights, the possible impact of foreign economic aid on civil and political rights cannot be glossed over. The Rapporteur strongly believes that the Sub-Commission requested him to look into this area of human rights as well. Inasmuch as the link between foreign economic assistance and the promotion, or disregard, of civil

and political rights is not direct and manifest but complex and multifaceted, an in-depth analysis will be necessary to see how this link takes shape in Chile. In the annotations to the outline of the report, the Rapporteur has endeavoured to point out some areas where an examination may be made of the relationship and interplay between foreign economic assistance to Chile and the situation of civil and political rights in that country.

15. Secondly, the study should examine the flow of foreign capital to Chile, including commercial loans, private loans, loans from States, loans from International Organizations, as well as foreign investments. The question whether foreign investments in Chile should also be dealt with in the Report has been answered in the affirmative by the Rapporteur for the following reasons. The Sub-Commission resolution 11 (XXX), which sets forth the terms of reference of the Rapporteur uses broad and flexible terminology to indicate the scope and purpose of the study. In preambular paragraph 5 reference is made to "foreign aid, assistance and investments in Chile from governmental, intergovernmental and private sources". In preambular paragraph 1 of Section I of the resolution mention is made of "economic aid and assistance" whereas in operative paragraph 1 of Section I reference is made to "the various forms of aid extended to the Chilean authorities" and in operative paragraph 3 of the same Section mention is made first of "assistance" and then of "aid" without any qualifying adjectives. In the opinion of the Rapporteur, this use of a variety of terms is indicative of an intention not to confine the scope of the study to one specific category of foreign aid; otherwise the framers of the resolution would have always used a single term with a single meaning. It is therefore apparent from the very text of the resolution that the Sub-Commission intended to give the study the widest possible scope. In addition, the debates that preceded the adoption of the resolution made it clear that the Sub-Commission expected the Rapporteur to consider all contributions to the Chilean economy coming from abroad. The philosophy behind the resolution is to have a study undertaken which will reveal whether the present situation of human rights in Chile draws benefit from, or is instead worsened by, the granting of foreign loans or capital. In other words, the study is designed to ascertain whether the flow of foreign capital into Chile helps to improve the situation of human rights there, or whether it is instead instrumental in causing a deterioration of that situation. In the light of this general goal, it seems to the Rapporteur that a discussion of foreign investments in Chile must perforce come within the province of his study.

16. Thirdly, the Report should focus on the assistance being given to the present régime and not attempt a systematic comparison with any prior period. Nevertheless, if and when it might prove useful for shedding light on the present situation, or explaining specific features of it, reference to pre-1973 conditions may be warranted.

17. Fourthly, the study is not intended to consider the economic situation of Chile per se, nor is it designed to merely focus on the attitude taken in the field of economic relations by the international community vis-à-vis Chile. The study is not aimed at scrutinizing from a political or economic viewpoint the economic policy decided upon by the Chilean authorities. Neither is it meant to pass judgment on whether the assistance given by States or international institutions to Chile is economically viable or effective. The study centres instead on

human rights. Its gist should be consideration of whether and how human rights are protected or violated in Chile. Its distinguishing trait is its intent to draw correlations between foreign economic assistance and respect for human rights in Chile, as well as its emphasis on the link between, and the interreaction of, economic, social and cultural rights on the one hand, and civil and political rights, on the other. Therefore, in the study, foreign economic assistance will not be considered as such or in its merely economic dimension. It must be considered only insofar as it interferes with or furthers respect for human rights.

18. A few final words seem appropriate about the characteristics that the report should have, in the view of the Rapporteur. The study should present in an objective manner the material made available to the Rapporteur, and it should be considered part and parcel of the humanitarian approach of the international community towards Chile. As for the humanitarian approach, the Rapporteur wishes to emphasize that he conceives the purpose of the action taken, or to be taken, by the United Nations, as part of an effort by the community of nations to help a Member State to live up to the basic international standards of respect for human rights accepted by that State. In this connexion, the Rapporteur wishes to quote from the statement made by the representative of Chile to the thirty-third session of the Commission on Human Rights: "the situation in Chile was undeniably tragic; the task of building a new society and restoring all the democratic traditions was enormous". (E/CN.4/SR.1422, para. 38). The Chilean representative also stated that "far from hiding its difficulties, his country had laid them open to the international community and invited it to help in ending the state of emergency and re-establishing the internal order necessary for human rights to be respected" (E/CN.4/SR.1421, para. 55). The Rapporteur shares both this concern and the hope that the international community may be instrumental in re-establishing respect for human rights in Chile, and trusts that his report may be of some help in the fulfilment of this endeavour.

## III. PROCEDURE FOR THE PREPARATION OF THE STUDY

19. The Sub-Commission has developed and the Commission on Human Rights has approved a method and procedure for carrying out its studies (resolutions B and G and chapter V of the report of the sixth session of the Sub-Commission (E/CN.4/703) and paragraphs 376-418 of the report of the tenth session of the Commission (E/2573)). This method and procedure has proven generally acceptable and successful in the preparation of numerous studies, and in the light of this experience the Rapporteur intends to follow such precedents.

20. The preparation of this study involves four stages: (a) collection, examination and verification of material; (b) analysis of the volume, origins, development and significance of the assistance given at present to Chile; (c) examination of the question of whether a quantitative or qualitative change in the aid now being given might contribute to restoring respect for human rights in Chile; (d) formulation of suggestions and recommendations for consideration by the Sub-Commission.

21. The main source of materials are expected to be the following: (a) Governments of Member States; (b) specialized agencies and other United Nations bodies; (c) regional organizations; (d) non-governmental organizations in consultative status with the Economic and Social Council; (e) independent institutions and (f) reliable publications.

22. On 5 October 1977, on behalf and at the request of the Rapporteur, the Secretary-General invited Governments to contribute information, reports or other material which would assist the Rapporteur in the preparation of his study.

23. Similar enquiries were directed to specialized agencies and various other United Nations bodies, regional organizations, non-governmental organizations in consultative status to the Economic and Social Council, and various independent institutions engaged in relevant activities.

24. Replies were sent to the Rapporteur by the following Governments on the dates indicated: Australia (18 October 1977), Barbados (15 November 1977), Cyprus (17 November 1977), Haiti (26 October 1977), Nigeria (9 November 1977), Norway (25 November 1977), Panama (25 October 1977), Seychelles (18 October 1977).

25. Replies were sent to the Rapporteur by the following specialized agencies on the dates indicated: International Labour Organisation (23 November 1977), United Nations Educational, Scientific and Cultural Organization (29 November 1977), World Health Organization (30 November 1977), International Bank for Reconstruction and Development (16 November 1977), International Civil Aviation Organization (14 November 1977), Universal Postal Union (25 November 1977), International Telecommunication Union (9 November 1977), World Meteorological Organization (9 November 1977), Inter-Governmental Maritime Consultative Organization (26 October 1977), World Intellectual Property Organization (21 October 1977).

26. Replies were sent to the Rapporteur by the following non-governmental organizations in consultative status with the Economic and Social Council on the dates indicated: Centre for Latin American Monetary Studies (24 October 1977), Chamber of Commerce of the United States of America (3 November 1977), Commission to

Study the Organization of Peace (9 October 1977), Co-ordinating Committee for International Voluntary Service (4 November 1977), Friends World Committee for Consultation (29 November 1977), Inter-American Council of Commerce and Production (28 October 1977), Inter-American Statistical Institute (26 October 1977), International Bar Association (17 October 1977), International Committee of the Red Cross (20 October 1977), International Law Association (23 November 1977), Inter-Parliamentary Union (27 October 1977), International Youth and Student Movement for the United Nations (20 September 1977), Socialist International (26 October 1977), The Trilateral Commission (18 October 1977), Vienna Institute for Development (19 October 1977), World Federation of Catholic Youth (22 October 1977) World Federation of Trade Unions (29 November 1977).

27. Replies were sent to the Rapporteur by the following independent institutions on the dates indicated: Centro de Investigacion y Docencia Economicas, A.C. (9 November 1977), Contemporary Archive on Latin America (25 November 1977), Inter-American Bar Association (15 November 1977), North American Congress on Latin America (8 November 1977), Tampere Peace Research Institute (25 October 1977).

28. With the assistance of the Secretariat, the Rapporteur is supplementing this material with information obtained from United Nations documents and other publications, including periodicals, the press and the writings of scholars and experts.

#### IV. ANNOTED PROPOSED OUTLINE

##### A. General Survey of Foreign Economic Assistance to Chile

29. In this section the Rapporteur proposes to give a concise factual picture of the various forms of economic assistance granted by governments and international and foreign entities. An attempt will be made to indicate the pattern of this assistance during the last few years, and the level it has reached.

30. Special emphasis will be placed on two questions: (a) whether there are conditions imposed on the various forms of foreign economic assistance, and (b) whether methods for verification of the actual use of that assistance are provided for or have been set up either by the Chilean authorities or by the State, foreign or international entity providing the assistance.

##### B. Specific economic, social and cultural rights on which foreign economic assistance may have a direct bearing

31. In this section the Rapporteur proposes to analyse whether and to what extent foreign economic assistance is used in Chile to promote respect for certain basic human rights. The human rights selected for this enquiry include, inter alia, the right to work and to social security, the right to adequate housing, the right to food, the right to physical and mental health and the right to education.

32. Part I of this section will be devoted to a general survey of the situation in various fields relating to the aforementioned rights. The survey is intended to give a factual description of the evolution of the conditions in the various areas (employment, housing, nutrition, health etc.). The terminus a quo will generally be 11 September 1973; yet, whenever it is deemed necessary for a better understanding of the matter, an earlier starting point may be taken.



33. This factual description should constitute the general background against which will be placed the specific questions to be dealt within the report.

34. Part II of this section should pinpoint the various categories and forms of foreign economic assistance provided specifically in connexion with any of the areas enumerated above (employment, housing, nutrition, health, etc.). If foreign economic assistance is not given with the aim of specifically benefiting one of the above areas, an attempt will be made to determine whether the Chilean authorities actually use that assistance in one of the said areas.

35. This part is designed to regroup the data set forth in Section I by different criteria: not according to the source of the assistance, but according to the human rights to which it relates.

36. Part III will deal with the question of the impact of foreign economic assistance on various economic, social or cultural rights. The main issue to be examined is whether and to what extent foreign economic assistance is beneficial to needy people in the field of employment, housing, nutrition, etc. Of course, the answer to this question may be readily available whenever there exists domestic or international machinery for determining how the foreign assistance is used in Chile. In those instances, which, however, seem to be more numerous, where no system exists for verifying who actually benefits from the foreign aid, the Rapporteur intends to rely on indirect evidence, on general information (such as statistics, etc.) and on reliable reports. Whenever possible and appropriate, the Rapporteur will use a supplementary criterion: whether those granting the economic assistance have requested the Chilean authorities to allow independent scrutiny both of the manner in which economic assistance is used and, more specifically, of whether needy people are the actual recipients of the assistance. Compliance or non-compliance by the Chilean authorities with these requests might be considered as establishing a kind of presumption that foreign economic assistance goes, or does not go, to the people whom it should benefit. Of course, this criterion shall be used with the utmost caution and an attempt will be made to corroborate findings based on such a presumption with other reliable information.

C. The relation between foreign economic assistance and the enjoyment of civil and political rights

37. In this section the Rapporteur will examine the relationship between the enjoyment of civil and political rights and that of social, economic and cultural rights, from the vantage point of foreign economic assistance. A major question on which he will focus attention is to what extent foreign economic assistance to Chile, as well as the actual use of such assistance in Chile, are affected by the present disregard for civil and political rights in that country.

38. Several complex problems will have to be dealt with in this section. By way of example, and without claiming to be exhaustive, the Rapporteur will point out some of them with a view to indicating the types of areas he intends to cover.

39. A general, and in a way preliminary, question is whether the granting of foreign economic assistance to Chile has been to some extent influenced by the situation of human rights in that country. The Rapporteur will try to determine, generally on the basis of official documentation, whether States or international agencies have

decided to withhold economic assistance to Chile - thus stopping a flow of help that could benefit needy people - because of the present situation of civil and political rights in that country.

40. Another question to be addressed is the following: whether the actual use in Chile of foreign economic assistance is rendered less efficacious by the present situation of civil and political rights. In particular, it should be determined whether the present restrictions on civil and political rights have an adverse effect on the full utilization of foreign economic aid.

41. Yet another question which could be examined in this section is whether the benefit of foreign economic assistance inures to those persons who have been directly affected by the present practices of the Chilean authorities in the field of civil and political rights. The Rapporteur intends to examine here whether those persons who have suffered deprivation of their civil and political rights benefit from foreign economic assistance, including whether foreign economic assistance benefits families of missing persons or persons affected by imprisonment or detention.

Annex

Tentative Table of Contents  
of Final Report

Introduction

1. Scope of the report
2. Methods of work
3. Sources used
- A. General survey of foreign economic assistance to Chile
  1. Economic assistance from States
  2. Economic assistance from intergovernmental organizations
  3. Economic assistance from private entities
  4. Instances where conditions are imposed on foreign economic assistance
  5. Systems for verifying how foreign economic assistance is actually used in Chile
- B. Specific economic, social and cultural rights on which foreign economic assistance may have a direct bearing
  1. General survey of the situation in Chile in fields relevant to economic, social and cultural rights
  2. Categories and forms of foreign economic assistance relating to specific human rights
  3. Impact of foreign economic assistance on the realization of the various economic, social and cultural rights
- C. The relation between foreign economic assistance and the enjoyment of civil and political rights
- D. Conclusions and recommendations