

New York, February 18th, 1986.

Mr. George Lister
c/o Bureau of Human Rights and Humanitarian Affairs
Room 7802
Department of State
Washington, D.C. 20520

Dear Mr. Lister:

I am enclosing herewith a draft of a revised proposal for a Resolution on the Question of Human Rights in Chile at the UN Commission on Human Rights' meeting now taking place in Geneva.

The enclosed revised draft contains my own personal observations as well as many I have received from Chile, which I hope to have an opportunity to discuss in detail with you soon. Please feel free to share the enclosed document with Secretary Schifter and members of the staff.

Best regards,



Martin Poblete

Question of Human Rights in Chile

The Commission on Human Rights,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms and resolved to remain vigilant with regard to violations of human rights wherever they occur,

Noting the obligation of the Government of Chile to respect and protect human rights in accordance with the International Instruments to which Chile is a party, an obligation which is not different from that of any other government which is a party to international human rights instruments,

Recalling its successive resolutions on the situation of human rights in Chile and in particular its Resolution 11 (XXXV) of 6 March 1979, by which it appointed a Special Rapporteur on the situation of those rights, and its Resolution 1985/47 of 14 March 1985, in which agreed most recently to extend the mandate of the Special Rapporteur for one more year,

Recalling also, among other resolutions, General Assembly Resolution 40/145 of 13 December 1985 in which the Assembly invited the Commission on Human Rights to take the most appropriate steps for the effective restoration of human rights and fundamental freedoms in that country, including the extension of the mandate of the Special Rapporteur for one more year,

Having examined the Special Rapporteur's report;

1. Commends the Special Rapporteur for his Report on the Situation of Human Rights in Chile, prepared in accordance with Resolution 1985/47;
2. Recognizes as a positive development the fact that the Government of Chile provided to the Special Rapporteur the cooperation and freedom of access to persons of all social, political and economic interests necessary for his investigations;

3. Although aware of the radicalizing consequences of many years without adequate channels for democratic popular participation in public affairs, the Commission cannot fail to notice that Chile is suffering from a high number of terrorist incidents which result in widespread indiscriminate violence, and believes that such incidents can and should be prevented through measures consistent with respect for the rule of law and with the Government's obligations to protect human rights;
4. Expresses its conviction that a legal and political structure based upon a civilized dialogue, conducive to a democratically elected government representative of the will of the people, is essential to the full observance of human rights in Chile;
5. Takes note of several limited improvements mentioned by the Special Rapporteur, namely:
 - (A) Judicial investigations of security personnel reported to have committed human rights abuses,
 - (B) A reduction in the number of exiles barred from entering their country, although the problem of exile continues to have an adverse effect on respect for human rights in Chile;
6. Expresses its concern at the persistence of serious violations of human rights in Chile as described in the report of the Special Rapporteur, and strongly concurs in his recommendations that the Government of Chile take the following steps:
 - (A) Proceed vigorously through judicial and administrative action to investigate all reports of torture or other human rights violations by the security forces, take appropriate action against all persons found guilty of such violations, and effect such reorganization of the security forces as may be necessary to end persistent problems of human rights,
 - (B) End the practice of ordering internal banishment without due process of law,
 - (C) Thoroughly investigate the recent unsolved assaults against persons engaged in human rights activities, and take vigorous steps to protect such persons against future assaults,

- (D) Cooperate fully and effectively with investigations ordered in proceedings on cases or complaints in civilian and military courts, and reform the legal system to guarantee the maximum effectiveness of judicial remedies, particularly habeas corpus, known in Chilean law as *recurso de amparo*,
- (E) Allow the return of all Chilean citizens now living abroad who wish to return;

- 7. Once again calls urgently on the Government of Chile to restore and respect human rights in accordance with the provisions of the Universal Declaration of Human Rights and in compliance with the obligations it has assumed under various international instruments, and to re-establish the principles of legality, democratic institutions, and effective enjoyment and exercise of civil and political rights and fundamental freedoms;
- 8. Requests the Government of Chile to materialize its stated willingness to continue its cooperation with the Special Rapporteur by implementing his recommendations, particularly those recommendations related to drafting and enacting laws to regulate a political process towards the restoration of representative democracy; in this regard, the Commission concurs with the Special Rapporteur that "...a shorter time-frame than that established by the Government must be fixed (A/40/647 page 21 (k))";
- 9. Invites the Government of Chile to submit any comments it may have to the Commission on Human Rights at its forty-third session;
- 10. Decides to extend the mandate of the Special Rapporteur for one year and to request him to report on the situation of human rights in Chile to the General Assembly at its forty-first session and to the Commission on Human Rights at its forty-third session;
- 11. Recommends to the Economic and Social Council to make appropriate arrangements to ensure that the necessary financial resources and sufficient staff are provided to implement this Resolution;
- 12. Decides to consider at its forty-third session the status of human rights in Chile under the agenda item "Question of Human Rights in Chile".