

sion be interpreted as restricting the right of any State to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay or to establish differences between nationals and aliens. However, such laws and regulations shall not be incompatible with the international legal obligations of that State, including those in the field of human rights.

2. This Declaration shall not prejudice the enjoyment of the rights accorded by domestic law and of the rights which under international law a State is obliged to accord to aliens, even where this Declaration does not recognize such rights or recognizes them to a lesser extent.

Article 3

Every State shall make public its national legislation or regulations affecting aliens.

Article 4

Aliens shall observe the laws of the State in which they reside or are present and regard with respect the customs and traditions of the people of that State.

Article 5

1. Aliens shall enjoy, in accordance with domestic law and subject to the relevant international obligations of the State in which they are present, in particular the following rights:

(a) The right to life and security of person; no alien shall be subjected to arbitrary arrest or detention; no alien shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law;

(b) The right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence;

(c) The right to be equal before the courts, tribunals and all other organs and authorities administering justice and, when necessary, to free assistance of an interpreter in criminal proceedings and, when prescribed by law, other proceedings;

(d) The right to choose a spouse, to marry, to found a family;

(e) The right to freedom of thought, opinion, conscience and religion; the right to manifest their religion or beliefs, subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others;

(f) The right to retain their own language, culture and tradition;

(g) The right to transfer abroad earnings, savings or other personal monetary assets, subject to domestic currency regulations.

2. Subject to such restrictions as are prescribed by law and which are necessary in a democratic society to protect national security, public safety, public order, public health or morals or the rights and freedoms of others, and which are consistent with the other rights recognized in the relevant international instruments and those set forth in this Declaration, aliens shall enjoy the following rights:

(a) The right to leave the country;

(b) The right to freedom of expression;

(c) The right to peaceful assembly;

(d) The right to own property alone as well as in association with others, subject to domestic law.

3. Subject to the provisions referred to in paragraph 2, aliens lawfully in the territory of a State shall enjoy the right to liberty of movement and freedom to choose their residence within the borders of the State.

4. Subject to national legislation and due authorization, the spouse and minor or dependent children of an alien lawfully residing in the territory of a State shall be admitted to accompany, join and stay with the alien.

Article 6

No alien shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and, in particular, no alien shall be subjected without his or her free consent to medical or scientific experimentation.

Article 7

An alien lawfully in the territory of a State may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons why he or she should not be expelled and to have the case reviewed by, and be represented for the purpose before, the competent authority or a person or persons specially designated by the competent authority. Individual or collective expulsion of such aliens on grounds of race, colour, religion, culture, descent or national or ethnic origin is prohibited.

Article 8

1. Aliens lawfully residing in the territory of a State shall also enjoy, in accordance with the national laws, the following rights, subject to their obligations under article 4:

(a) The right to safe and healthy working conditions, to fair wages and equal remuneration for work of equal value without distinction of any kind, in particular, women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(b) The right to join trade unions and other organizations or associations of their choice and to participate in their activities. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary, in a democratic society, in the interests of national security or public order or for the protection of the rights and freedoms of others;

(c) The right to health protection, medical care, social security, social services, education, rest and leisure, provided that they fulfil the requirements under the relevant regulations for participation and that undue strain is not placed on the resources of the State.

2. With a view to protecting the rights of aliens carrying on lawful paid activities in the country in which they are present, such rights may be specified by the Governments concerned in multilateral or bilateral conventions.

Article 9

No alien shall be arbitrarily deprived of his or her lawfully acquired assets.

Article 10

Any alien shall be free at any time to communicate with the consulate or diplomatic mission of the State of which he or she is a national or, in the absence thereof, with the consulate or diplomatic mission of any other State entrusted with the protection of the interests of the State of which he or she is a national in the State where he or she resides.

40/145. Situation of human rights and fundamental freedoms in Chile

The General Assembly,

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

Noting the obligation of the Chilean authorities to respect and protect human rights in accordance with the international instruments to which Chile is a party,

Bearing in mind that the concern of the international community at the situation of human rights in Chile was expressed by the General Assembly in its resolutions 3219 (XXIX) of 6 November 1974, 3448 (XXX) of 9 December 1975, 31/124 of 16 December 1976, 32/118 of 16 December 1977, 33/175 of 20 December 1978, 34/179 of 17 December 1979, 35/188 of 15 December 1980, 36/157 of 16 December 1981, 37/183 of 17 December 1982, 38/102 of 16 December 1983 and 39/121 of 14 December 1984, as well as in its resolution 33/173 of 20 December 1978 on disappeared persons,

*Recalling the relevant resolutions of the Commission on Human Rights, in particular resolution 1985/47 of 14 March 1985,³⁰ in which the Commission decided, *inter alia*, to extend the mandate of the Special Rapporteur for a year and to consider the question as a matter of high priority in view of the increase in serious violations of human rights in Chile,*

Considering that the Special Rapporteur proposes to submit to the Commission on Human Rights at its forty-second session a final report on the situation of human rights in Chile,

Considering also the public and notorious nature of many of the deeds which constitute serious and systematic violations of human rights and fundamental freedoms in Chile,

Deploring once again the fact that the repeated appeals of the General Assembly, the Commission on Human

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.