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Dominguez-Redondo, Elvira ORCID logoORCID: <https://orcid.org/0000-0001-5089-2906> and Sepulveda Carmona, Magdalena (2021) Contextualizing the Cassese Report: the dictatorship that changed the United Nations human rights system and its legacy in monitoring economic, social and cultural rights. In: Pinochet's Economic Accomplices: An Unequal Country by Force. Bohoslavsky, Juan Pablo, Fernández, Karinna and Smart, Sebastián, eds. Lexington Books, London, pp. 63-76. ISBN 9781793616494, e-ISBN 9781793616500. [Book Section]

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Contextualizing the *Cassese Report*: The dictatorship that changed the United Nations human rights system and its legacy in monitoring economic, social and cultural rights

Elvira Domínguez Redondo and Magdalena Sepúlveda Carmona

A. Introduction: Chilean Dictatorship as Precursor of New International Fact-Finding Mechanisms

After the 1973 military coup in Chile, international non-governmental organizations, including Amnesty International, were quick to denounce the brutality of the regime to the United Nations (UN). In contrast, the UN General Assembly limited its reaction to a general condemnation of any form of torture.¹ However, the UN was under pressure to take a more palpable stance on human rights issues due to the widespread rejection that the atrocities committed in Chile attracted, as well as other significant events including the human rights situation in Argentina and the death by torture of Steven Biko.² The Organization embarked on a long process of standard setting culminating in instruments such as the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment³ or the 1992 Declaration on the Protection of All Persons from Enforced Disappearances.⁴ In addition, the Commission on Human Rights - the main UN intergovernmental body responsible for the promotion and protection of human rights since 1946 and replaced by the Human Rights Council in 2006 - created its first fact-finding procedures⁵ to investigate and report about the situation of human rights violations in South Africa, in 1967,⁶ and Chile, in 1975.⁷ Similar mechanisms were established to monitor the human rights situations in other countries (the so-called geographical procedures) or to investigate a phenomenon of human rights violations worldwide (thematic procedures). Still, the creation of the first thematic mandates was linked to the situation of human rights in specific countries. This is the case of the Working Group on Enforced or Involuntary Disappearances (the first thematic procedure), whose establishment, in 1980,⁸ was instigated by the international reaction to the widespread practice of disappearances in Argentina as well as by the conclusions of the 1978 report of the Working Group on Chile.⁹ The focus on the issue of disappearances was inherently linked to the right to life and coincided with the attention that the international community was also paying to the human rights situations in Guatemala, Kampuchea and Syria, resulting, in 1982, in the creation of the Special Rapporteur on summary and arbitrary executions.¹⁰ Three years later, the creation of the mandate of the Special Rapporteur on Torture and Other Cruel,

Inhuman or Degrading Treatment, was also influenced by the debate, within the United Nations, on the situation of human rights in Chile.¹¹

The reaction of the international community to the systematic violation of human rights in Chile during the military dictatorship not only drove advances in regulation and monitoring mechanisms, but it also determined a new direction of the UN agenda in the promotion and protection of human rights. Following twenty years of denying its own competence to investigate human rights violations, the Commission on Human Rights had changed its position in 1967, in order to address the politics of *apartheid* and the situation in the occupied Arab territories. These initiatives were still limited to issues that were not regarded as pertaining to the domestic affairs of a State. Furthermore, the actions of the Commission were preceded by others approved by the General Assembly and the Security Council as situations that constituted a threat to international peace and security.¹² With the establishment of the Ad Hoc Group on Chile, the Commission opted to examine human rights situations that, until then, had been opposed as undue interference in the internal affairs of States, breaching the fundamental principle of international law enshrined in article 2.7 of the UN Charter. The precedent of Chile opened the door to the creation of other human rights monitoring mechanisms that have become known as “special procedures”.

Special procedures are mechanisms entrusted to independent experts acting individually or within the framework of a working group consisting of five members. All experts in charge of special procedures have the common mandate of investigating and reporting on human rights situations in a specific territory (geographical mandates) or on a category of human rights (thematic mandates). In January 2020, there were 80 independent experts in charge of 55 special procedures.¹³ Of these, 43 are thematic mandates focused on a wide range of human rights such as freedom of expression, toxic waste, violence against women, health or the right to water and sanitation. Geographical mandates report on the human rights situation in Belarus, Cambodia, Central African Republic, Democratic People's Republic of Korea, Eritrea, Iran, Mali, Myanmar, Somalia, Sudan, Syria, and the occupied Palestinian territories. The creation of a special procedure depends on a political decision adopted by a majority of the governmental representatives of whom the Human Rights Council is composed. Hence, their establishment and operationalization are not subjected to the consent of any concerned State, which translates into the universal scope of their mandates. The experts in charge of special procedures have developed flexible working methods. The majority accepts complaints about human rights violations to which they can

respond promptly through “urgent appeals”, if the life or physical integrity of a person or group is in danger. They also handle individual complaints on an ordinary basis when they believe there is reliable information that indicates the possible violation of rights under their competence. With the consent of the relevant States, the experts conduct visits to investigate human rights situations on the ground. By January 2020, 127 States have issued open invitations to the rapporteurs to visit their territories.¹⁴

The progress that the international investigation of the human rights situation in Chile brought about under the auspices of the United Nations was groundbreaking but, at that time, largely limited to the sphere of civil and political rights, as can be seen from the mandates assigned to the first fact-finding bodies and the range of rights that were prioritized in codification efforts. Both the General Assembly and the Commission on Human Rights reacted very timidly to violations of economic, social and cultural rights (ESCR) and failed to address the complicity of business and other economic agents in human rights violations. A notable exception was the *Study on the impact of foreign economic aid and assistance on respect for human rights in Chile*, undertaken by the leading international jurist, Antonio Cassese. Despite being a solid, relevant and pioneering study, it had little impact, highlighting the absence of political will to address the economic factors and the role of businesses in facilitating the abuses that characterized the Pinochet regime. The lack of attention to these factors and the contempt demonstrated towards the violations of ESCR have continued in democracy.

This chapter delves into topics developed in other sections of this book, with the objective of explaining the key reasons underpinning the low impact of the *Cassese Report*. Through the lenses of the intergovernmental decisions establishing the mandates and scope of competences of special procedures, the analysis that follows demonstrates the absence of political will to equate the importance granted to civil and political rights with that granted to economic, social and cultural rights. The progress to mitigate this imbalance since the time of publication of the Cassese Report has been quantitative rather than qualitative. While economic, social and cultural rights have gained prominence over the years, most advances remain insufficient, especially regarding the role of business in human rights abuses. As long as the political decisions adopted within the human rights monitoring system do not implement the indivisibility of all rights, it will be very difficult to achieve substantial progress in this field.

The Chapter is divided into three parts. The first explains the geopolitical coordinates in which the Cassese Report was discussed. It reveals that some of the factors that resulted in undermining its importance have survived over the years. However, other substantial and institutional parameters have changed and can shed light on the opportunities that exist today to address the complicity of business and other enterprises in human rights violations. The second part of the chapter explains the late incorporation of economic, social and cultural rights among those investigated by special procedures and how different political and institutional decisions have been decisive to perpetuate, for years, their lower “rank”. The final section outlines the main reports of special procedures on democratic Chile, concluding that mandate holders should adopt a more systematic approach to the incorporation of corporate responsibility for human rights in their analysis and reports.

B. Geopolitical coordinates of the Cassese Report: Role of the Sub-Commission on the Promotion and Protection of Human Rights

Fernández and Smart’s contribution highlights the role of the Working Group on Chile in the decision to appoint an expert to study the impact of foreign aid and economic assistance on respecting human rights in that country. It is possible to speculate that entrusting the study to an expert of the then Sub-Commission on Prevention of Discrimination and Protection of Minorities (hereinafter: Sub-Commission) subtracted weight from the final outcome, because the Sub-Commission was a body composed of experts. However, the Cassese report was also tabled before the General Assembly, the only plenary intergovernmental body of the UN.¹⁵ Most of the few references that can be found to the study, in databases of the United Nations and others, are limited to that session of the General Assembly, which Antonio Cassese attended in person. He also offered to answer questions, although summary records of the session indicate that no governmental representative used such prerogative.¹⁶

However, the delegations of the German Democratic Republic and Belarus drew attention to the report, noting that their conclusions were parallel to those made by Rapporteur Khalifa in his study on the adverse consequences for the enjoyment of human rights of the assistance provided to the colonialist and racist regimes of southern Africa¹⁷. Using arguments similar to those defended by the Chilean government¹⁸, the Moroccan delegation expressed deep disagreement with the preparation of this report, which it considered the product of a political decision contrary to the prohibition of interference in the internal affairs of States and accusing the Rapporteur of having acted *ultra vires*¹⁹.

Finally, General Assembly resolution 33/175 of December 20, 1978 expressed its appreciation to the Special Rapporteur for his report. The Cassese Report found some echo in the 1979 report of the Working Group on Chile.²⁰ The Secretary-General's report on the international dimension of the right to development, published that same year, also refers to Cassese's findings and conclusions in the sections dedicated to official aid (paragraphs 260-72) and the role of transnational corporations in realizing the right to development (paragraph 286).²¹ Apart from those examples, we must wait until recent reports of the current Independent Expert on the consequences of external debt and international financial obligations on the enjoyment of human rights, Juan Pablo Bohoslavsky, to find references to the Cassese report.²²

The disparity between the relevance of the pioneering and substantive content of the Cassese Report, and its impact inside and outside the United Nations, reflects an intrinsic difficulty of the international human rights system. On the one hand, only experts detached from eminently political processes have the necessary tools and independence to conduct critical background analyses of the scope of the Cassese Report. However, guaranteeing such independence means a departure from governments and state agendas that ultimately implement national policies and create international human rights mechanisms. The disappearance of the Sub-Commission, in 2006, demonstrates the vulnerability of those who try to operate while ignoring the politicization of the bodies on which they depend. The lack of systematic follow-up to the Cassese Report illustrates the lack of political will to effectively implement the proclaimed indivisibility of all human rights, a legacy which has been perpetuated to this day.

The Sub-Commission always paid greater attention to ESCR than the Commission. Several reports prepared by its members were significant for the advancement of the analytical content of these rights.²³ The issue of corporate responsibility and rights continued on the agenda of the Sub-Commission after the Cassese Report, although progress over the years was slow and the reception by countries and the Human Rights Commission was poor. Only in 2003 did the Sub-Commission adopt the "Draft norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights".²⁴ This draft referred to the "obligations" that international human rights imposed on businesses. Without the scientific rigor of the Cassese Report, the rules were criticized for the ambiguity of their legal foundations and for suggesting obligations on business actors that went beyond the existing legal framework.²⁵ Many governments and the business community vehemently

opposed them, considering that they had gone too far.²⁶ The Commission on Human Rights openly rejected them and, in 2005, requested the Secretary-General to designate a Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises.²⁷ The appointed Special Representative, John Ruggie, radically changed the approach to this topic and carried out a consultation process to facilitate consensus among the various stakeholders.²⁸ In 2011, he presented a completely new set of principles, the “Guiding Principles on Business and Human Rights for implementing the United Nations “Protect, Respect and Remedy Framework”²⁹ (Guiding Principles) which were immediately supported by the Human Rights Council.³⁰ The Guiding Principles constitute the main and most complete input prepared by the UN on business and human rights. However, they have not been without criticism. For some States and academics, they contain softened obligations that are expressed only in terms of a responsibility (and not an obligation) to respect human rights. It has been argued that the attempt to take into account and reconcile the views of all parties involved led to a lack of consistent conceptual foundations.³¹

These welcome advances represent a late and incomplete answer to the diminished status enjoyed by ESCR within the UN human rights machinery, as demonstrated in the mandates of Special Procedures established by now extinct Commission on Human Rights. The procedures related to ESCR have encountered obstacles both to achieving the majority of votes necessary for their creation and to enjoying the same position in the unwritten hierarchy of rights that has permeated the promotion and protection of human rights at domestic, regional and international level.

C. Late Creation and Difference in Treatment of Mandates related to Economic, Social and Cultural Rights

The first special geographic and thematic public procedures have existed since 1967 and 1980 respectively. It takes decades for the Commission to create the first mandates focused on ESCR. The change of direction is marked by the establishment, in 1997-8, of the mandates on structural adjustment programs,³² the effects of external debt on the enjoyment of human rights³³ (merged with the mandate on structural adjustment in 2000);³⁴ extreme poverty³⁵; the right to development;³⁶ and the right to education.³⁷ With the exception of the right to education, these mandates did not directly refer to ESCR as contained in the Universal Declaration of Human Rights and the International Covenant on Economic, Social

and Cultural Rights (ICESCR). Since 2000, there is a more proactive approach, illustrated by the creation of the mandates related to the right to food,³⁸ the right to housing as an integral element of the right to an adequate standard of living,³⁹ and the right of every person to enjoy the highest level of physical and mental health.⁴⁰ Almost a decade later, the mandates relating to the right to safe drinking water and sanitation (2008)⁴¹ and to cultural rights (2009)⁴² were added to the system of special procedures, as well as mandates linked to the enjoyment of a plurality of ESCR, such as those related to international solidarity (2005), the promotion of a democratic and equitable international order (2011), environment (2012) and the right to development (2016). As mentioned above, the first special procedure dedicated exclusively to the topic of business and human rights was established in 2005.⁴³ In 2011, the Special Representative was replaced by the Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group on Business and Human Rights).⁴⁴

To date, mandates related to ESCR are significantly lower in number than those focusing on civil and political rights. However, the difference is not only in the number of mandates but also in two important elements: (a) the terminology chosen for naming the procedure and (b) the nature and scope of the competences assigned to the mandate holder.

a) Name of the mandate

The reticence towards mandates on ESCR is reflected in the introduction of different denominations for the mandate holders of these procedures. The plurality of denominations (Rapporteur/Representative /Special Envoy or Independent Expert) do not have an express relationship with the content of the mandates or with the institutional position of the experts. Rather, the decision to opt for one nomenclature or another responds to political motivations.⁴⁵ The name Rapporteur has the connotation of underlining the seriousness of the human rights situation covered by the mandate. Until procedures that monitor ESCR, as well as the rights groups in vulnerable positions, or so-called “third generation” rights”, appeared on the scene, only geographical procedures were designated by names other than Special Rapporteur or Working Group. Although a few mandates directly referred to ESCR were conferred on “Special Rapporteurs” (education, food, housing, and health), all other mandate holders have been originally designated as “Independent Experts” or “Special Representatives”.⁴⁶

The greater weight associated to Special Rapporteur has prompted mandate holders that were appointed with other denominations to promote the change of title. This is the case, for example, of the mandates of the Independent Experts on the rights to drinking water and sanitation,⁴⁷ extreme poverty,⁴⁸ cultural rights⁴⁹ and environment⁵⁰. In the negotiations of the resolutions which renamed these mandates from “independent experts” to “special rapporteurs”, it was evident that the change sought to “raise” their status and reinforce the legitimacy of the tasks formerly performed. In fact, several mandate holders had assumed, since their establishment, investigative and monitoring functions, including responding regularly to communications and sending urgent requests and allegation letters, despite the literal letter of their mandates, as explained below.

b) Nature of the mandate

Another important disparity in treatment between the mandates relating to civil and political rights and those addressing ESCR lies in the nature of the mandate with which they were created. On many occasions, the competences assigned to the mandate holders related to ESCR have been directed to studies and/or draft declarations or guiding principles, not including the competence to “respond effectively” or “investigate” violations of human rights, as in the case of mandates related to civil and political rights. For example, the original mandate of the special procedure on education required to report on the progressive realization of the right to education and to promote assistance to governments in the development of action plans to gradually achieve compulsory and free education for all. Very similar in content were the competences attributed to the rapporteurs on housing and health. However, the independent expert on drinking water and sanitation merely received competencies to prepare a compendium of best practices related to access to drinking water and sanitation and a study to specify the content of human rights obligations in relation to this topic. This last example is especially striking, because the procedure was created in 2009, when almost all mandate holders were investigating violations of ESCR, including individual communications, regardless of the literal wording of their mandate. The Independent Expert in the field of cultural rights also received a mandate focused on conceptual analysis and advisory work.

Although decaffeinated, the original mandate of the Special Rapporteur on the right to food contained a reference to the need to “respond” to the information received on aspects of the realization of the right to food, which was manifested in this Rapporteur adopting, from its establishment, a similar approach to other special procedures on civil and political rights

in their working methods, including the processing of individual cases. For its part, the mandate of the “Working Group on Business and Human Rights” also differs from the conventional content assigned to mandates addressing civil and political rights. It focuses on promoting the Guiding Principles, identifying good practices, studying the possibilities of increasing access to effective resources for those whose human rights are affected by the activities of companies, and establishing a dialogue with different partners. Despite incorporating the possibility of visiting countries, it does not directly refer to an obligation – or even the possibility - to investigate violations.⁵¹

D. Snapshot of the Present and Future Outlook

Compare to its predecessor, the Human Rights Council, has contributed to narrowing the gap between the efforts devoted to ESCR and those categorized as civil and political rights. However, the Chilean case reveals the limits of this progress. To date, special procedures have not addressed systematically and comprehensively the abuses attributed to the dictatorship and how they continue to influence the enjoyment of human rights in the country. Considering the higher than average attention paid to Chile by special procedures, this is an unsatisfactory outcome.

Since its transition to democracy in 1990, Chile has been visited by a relatively high number of special procedures, including the Special Rapporteur on the Rights of Indigenous Peoples (2003 and 2009), the Working Group on Mercenaries (2007); the Working Group on enforced or involuntary disappearances (2012), the Special Rapporteur on human rights and fundamental freedoms in the fight against terrorism (2013); the Working Group on the issue of discrimination against women in law and practice (2014); the Special Rapporteur on extreme poverty (2015);⁵² the Special Rapporteur on the right to education (2016);⁵³ the Special Rapporteur on the rights to freedom of peaceful assembly and association (2016); and the Special Rapporteur on adequate housing (2017).⁵⁴ The reports of the visits reveal that the violations to ESCR have received comparable attention to civil and political rights violations in recent years. This seems to be in line with the reality of the country, since, despite a significant improvement in the enjoyment of civil and political rights, the situation of social, cultural and economic rights remains a pending task.

Mandate holders have been quite critical on the performance of the Chilean government regarding ESCR. They have also addressed the role that business and other economic actors play in the enjoyment of human rights, expressing concerns over the limited protection of trade union rights, labor rights and the right to strike,⁵⁵ the low participation of women on the boards of directors and decision-making positions in public companies,⁵⁶ the interference of corporate interests in funding education⁵⁷. Special procedures have proposed that the National Plan of Action on Business and Human Rights should be applied to real-estate developers,⁵⁸ they have encouraged the business sector to assume social responsibility and contribute to national resources for education,⁵⁹ and have recommended that companies that operate the mining, forestry and agricultural industries on land claimed by indigenous peoples, adopt human rights standards in accordance with the Guiding Principles on Business and Human Rights.⁶⁰ To date, the most extensive analysis - not yet comprehensive - of corporate responsibility in reports made after country missions to Chile does not come from ESCR mandates, but from the report of the Special Rapporteur on the rights of indigenous resulting from his 2009 visit.⁶¹ However, the analysis is inherently limited to a group of the Chilean population. There is still a need to examine the abuses of companies in relation to the entire population⁶².

While they have not carried out visits on the ground, the special procedures that have paid greater attention to the issue of financial complicity on the enjoyment of human rights, are the Independent Expert on the consequences of foreign debt⁶³ and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition.⁶⁴ In 2015, both mandate holders directly requested information from the Chilean government on the measures adopted by the State to carry out or promote research on financial aid and the granting of loans that the Chilean State would have received during the military dictatorship of Augusto Pinochet, analyzing how this aid would have contributed or prolonged the non-observance of human rights, or increased the likelihood of human rights violations that characterized the military dictatorship in Chile.⁶⁵ Unfortunately, to date, this request for information has been disregarded by the Chilean authorities. Hence, special procedures have not yet systematically examined the range of abuses committed by business and other enterprises during the dictatorship and how they may have contributed to perpetuating human rights violations in Chile.

If this is the situation four decades after the Cassese Report, it is not surprising that the United Nations system's responses to the civic-military dictatorship focused on civil and

political rights violations and ignored ESCR and corporate abuse. The rigor and breadth of the Cassese Report should have instigated greater monitoring of key abuses committed by companies that helped consolidate the dictatorship. Maybe the report was too progressive for its time. It was prepared by a leading international jurist, who analyzed the issue independently and oblivious to political considerations. His report was submitted to the Sub-Commission on Human Rights, which was an expert body, and, although it was also discussed by the General Assembly, this occurred at a time when the political organs of the system were not prepared to consider these issues. They did not even consider those rights of an economic, social and cultural nature as “real” rights at the time.⁶⁶

The fact that ESCR have been treated as a second-class category of rights also explains the delay in considering the issue of business and human rights, where the superficial distinction between categories of rights is inoperable. The creation of the relevant Working Group and the Guiding Principles on business and human rights became a reality in the second decade of the twenty-first century. In 2014, the Human Rights Council set up an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights and mandated to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.⁶⁷ Despite the progress made in the negotiations, from the outcomes of its fifth session in October 2019, the adoption of a text in the near future remains uncertain.⁶⁸



The lack of equal enjoyment of ESCR and the neglect in assessing the responsibility of businesses and other economic actors were among the legitimate claims underpinning the social unrest that erupted in Chile in October 2019.⁶⁹ In the current context, ignoring corporate abuse is unjustifiable. In Chile, inequality of wealth and income has not registered great improvements in the last decade⁷⁰ and, despite modest advances, the levels of poverty and extreme poverty are concerning and much higher than in the OECD average country.⁷¹ Moreover, the discourse and judicial protection of human rights still seems reserved only to civil and political rights.⁷² Thus, it is essential to promote ESCR more firmly and to address the present abuses committed by companies and remedy past ones.



The United Nations special procedures should give greater attention to corporate social responsibility. With the support of the government, as well as civil society organizations, including NGOs, academic institutions and trade unions, a visit to Chile by the Working Group on Business and human rights would serve as a catalyst to address these

long-neglected issues. Forty years after the Cassese Report, it is the responsibility of all stakeholders to undertake the analysis and adopt the necessary strategies to address the complicity of companies in past and present human rights violations in Chile. If stakeholders, including human rights monitoring bodies continue to overlook the responsibility of companies in the enjoyment of all human rights, the future of the young? Chilean democracy could be at risk.

¹ General Assembly (GA) Resolution (Res.) 3059 (XXVIII), November 2, 1973.

² Nigel Rodley, *The Treatment of Prisoners under International Law* (Oxford University Press, 2nd Ed. 1999), 18-45.

³ GA Res. 39/46, December 10, 1984.

⁴ GA Res. 47/133, December 18, 1992.

⁵ Elvira Domínguez-Redondo, *Los procedimientos públicos especiales de la Comisión de Derechos Humanos de Naciones Unidas* (Trotta, 2005), 34-48.

⁶ Commission on Human Rights (CHR) Res. 2 (XXIII), March 6, 1967, and Res. 7 (XXIII), March 16, 1967.

⁷ CHR Res. 8 (XXI), February 27, 1975, and Res. 11 (XXXV), March 6, 1979.

⁸ CHR Res. 20 (XXXVI), February 29, 1980.

⁹ UN doc. E/CN.4/1266 (February 1, 1978) and GA Res. 33/173, December 20, 1970. See also, Ian Guest, *Behind the Disappearances. Argentina's dirty war against human rights and the United Nations* (University of Pennsylvania Press, 1990) and Daniel Prémont, "United Nations Procedures for the protection of all persons subjected to any form of detention or imprisonment," *Santa Clara Law Review* 20(1) (1980): 603, 625.

¹⁰ Economic and Social Council (ECOSOC) Res. 1982/29, March 11, 1989.

¹¹ CHR Res. 1985/33, March 13, 1985. See also Rodley (1999) (n. 2), 18-45 and 134-146; on the joint discussion regarding the issues of genocide torture and disappearances, see Naomi Roht-Arriaza (ed.), *Impunity and Human Rights in International Law and Practice* (Oxford University Press, 1995), 26-8.

¹² For example, Security Council (SC) Res. 134 (1960), April 1, 1960; and 181 (1963), August 7, 1963. See also: RB Ballinger, "UN Action on Human Rights in South Africa" in *The International Protection of Human Rights*, ed. Luard (Tahes and Hudson, 1967), 248-85, esp. 257-66 and Nigel Rodley, "The United Nations and Human Rights in the Middle East" *Social Research* 38(1) (1971): 217-40.

¹³ See full list on the Website of the Office of the High Commissioner for Human Rights (OHCHR) at <https://www.ohchr.org/en/hrbodies/sp/pages/welcomepage.aspx>

¹⁴ Information available on the OHCHR Website at:

https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/StandingInvitations.aspx.

¹⁵ See CHR Res. 12 (XXXIV), March 6, 1978 (UN doc. E/1978/34 (SUPP) -E/CN.4/1292, 1978, pp. 116-8) requesting the expert to also present his report to the General Assembly.

¹⁶ UN Doc. A/C.3/33/SR.60 (December 1, 1978), paragraph 105.

¹⁷ UN Doc. A/C.3/33/SR.64 (December 7, 1978), paragraphs 3 and 34.

¹⁸ UN Doc. E/1978/34 (SUPP) -E/CN.4/292, pp. 116-8, UN Doc. E/1978/34 (SUPP) -E/CN.4/1292, paragraph 43.

¹⁹ UN Doc. A/C.3/33/SR.69 (December 12, 1978), paragraph 35.

²⁰ UN Doc. E/CN.4/1310 (February 1, 1979), paragraphs 7, 258, 259 and 314.

²¹ UN Doc. E/CN.4/1334 (January 2, 1979).

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- ²² UN Doc. A/HRC/28/59 (December 22, 2014) paragraphs 2 and 11; UN Doc. A/69/273 (August 4, 2014) paragraph 17; and UN Doc. A/HRC/30/27 (September 4, 2015) communication CHL 1/2015.
- ²³ For example, UN Doc. E/CN.4/Sub.2/1987/23 (July 7, 1987); and UN Doc. E/CN.4/Sub.2/1993/15 (June 22, 1993).
- ²⁴ Res. 2003/16, UN Doc. E/CN.4/Sub.2 /2003/12/ Rev.2, (August 26, 2003).
- ²⁵ UN Doc. E/CN.4/2005/91 (February 15, 2005).
- ²⁶ Speech by John Ruggie, January 28, 2014, available at:<https://sites.hks.harvard.edu/mrcbg/CSRI/UNBusinessandHumanRightsTreaty.pdf>
- ²⁷ UN Doc. E /CN.4/ RES/2005/69 (April 20, 2005).
- ²⁸ Karim Buhmann, “Navigating from a “train wreck” to being “welcomed”: negotiation strategies and argumentative patterns in the development of the UN framework”, in *Human rights obligations of business: Beyond the corporate responsibility to respect*, eds. Surya Deva and David Bilchitz (Cambridge University Press, 2013):29
- ²⁹ UN Doc. A/HRC/17/31 (March 21, 2011).
- ³⁰ Human Rights Council (HRC), Res. 17/4, June 16, 2011.
- ³¹ Carlos López, “The “Ruggie Process”: from legal obligations to corporate social responsibility?” in Surya and Bilchitz (n. 29): 58.
- ³² CHR, Res. 1997/103, April 3, 1997.
- ³³ CHR, Res 1998/24, April 17, 1998.
- ³⁴ CHR, Res. 2000/82, April 26, 2000.
- ³⁵ CHR, Res. 1998/25, April 17, 1998.
- ³⁶ CHR, Res. 1998/72, April 21, 1998.
- ³⁷ CHR, Res. 1998/33, April 17, 1998.
- ³⁸ CHR, Res. 2000/10, April 17, 2000.
- ³⁹ Ibid.
- ⁴⁰ CHR, Res. 2000/31, April 22, 2000.
- ⁴¹ HRC, Res. 7/22, March 28, 2008.
- ⁴² HRC, Res. 10/23, March 26, 2009.
- ⁴³ CHR, Res. 2005/69 (n. 28).
- ⁴⁴ CHR, Res. 17/4, July 6, 2011.
- ⁴⁵ Helena Cook, “International Human Rights Mechanisms. The Role of the Special Procedures in the Protection of Human Rights. The Way Forward after Vienna”, 50 *International Commission of Jurists. The Review* (1993):31-55: 43, 44.
- ⁴⁶ The exceptions refer to the right to development and that of business and human rights.
- ⁴⁷ HRC, Res. 16/2, March 24, 2011.
- ⁴⁸ HRC, Res. 17/13, June 17, 2011.
- ⁴⁹ HRC, Res. 19/6, March 22, 2012
- ⁵⁰ HRC, Res. 28/11, March 28, 2015.
- ⁵¹ HRC. Res. 17/4 (n. 31) See also original mandate conferred to the predecessor of this special procedure, the Special Representative of the Secretary General, contained in CHR, Res. 2005/69 (n.28).
- ⁵² UN Doc. A/HRC/32/31/Add.1.
- ⁵³ UN Doc. A/HRC/35/24/Add.1.
- ⁵⁴ UN Doc. A/HRC/37/53/Add.1.
- ⁵⁵ See, for example, UN Doc. A/HRC/32/36/Add.1 and UN Doc. A/HRC/32/31/Add.1.
- ⁵⁶ UN Doc. A/HRC/29/40 / Add.1.
- ⁵⁷ Ibid.
- ⁵⁸ UN Doc. A/HRC/37/53 / Add.1.
- ⁵⁹ UN Doc. A/HRC/35/24 /Add.1.

⁶⁰ UN Doc. A/HRC/32/31/Add.1.

⁶¹ UN Doc. A/HRC/12/34/Add.6.

⁶² See the contribution of José Aylwin.

⁶³ UN Doc. A/HRC/28/59.

⁶⁴ Ibid.

⁶⁵ Letter of May 26, 2015, CHL 1/2005, available on the Special Procedures communication database, at

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=15121>

⁶⁶ Magdalena Sepúlveda, *The Nature of the Obligations under the International Covenant on Economic, Social and Cultural Rights* (Antwerp: Hart, Intersentia, 2002).

⁶⁷ HRC, Res. 26/9 (June 26, 2014), para. 1.

⁶⁸ UN Doc A/HRC/43/XX

⁶⁹ See, for example, Luis Maldonado, Juan Carlos Castillo, Julio Iturra, Jorge Atria & Francisco Meneses, “La demanda por igualdad y los caminos que cuentan con amplio respaldo ciudadano”, Centro de Investigación Periodística (CIPER), December 6, 2019, available at <https://ciperchile.cl/2019/12/06/la-demanda-por-igualdad-y-los-caminos-que-cuentan-con-amplio-respaldo-ciudadano/>.

⁷⁰ See OECD Income Distribution Database, available

at: <http://www.oecd.org/social/income-distribution-database.htm>. See also, United Nations Development Programme (UNDP), *Desiguales. Orígenes, cambios y desafíos de la brecha social en Chile* (Unequal. Origins, changes and challenges in Chile’s social divide) (UNDP, June 2017) and Economic Commission for Latin America and the Caribbean, *Social Panorama of Latin America 2019*, (ECLAC, December 2019).

⁷¹ See, for example, Government of Chile, Ministry of Social Development, *Informe de Desarrollo Social 2017* (Social Development Report 2017), available at: <http://www.ministeriodesarrollosocial.gob.cl/pdf/upload/IDS2017.pdf>.

⁷² See, for example, UN Doc. E/C.12/CHL/CO/4 (July 7, 2015).