

II-577 der Beilagen zu den Stenographischen Protokollen  
des Nationalrates XV. Gesetzgebungsperiode

BUNDESMINISTERIUM  
FÜR  
AUSWÄRTIGE ANGELEGENHEITEN

WIEN, 24. Jänner 1980

Zl. 403.03/47-II.5/79

Schriftliche Anfrage der Abgeordneten  
zum Nationalrat Dkfm. DDr. König  
und Gen. betreffend Haltungsveränderung  
Österreichs bei den Vereinten Nationen  
zugunsten des kommunistischen Kuba  
(Nr. 238/J)

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1980 -01- 24

zu 238/J

An den

Herrn Präsidenten des Nationalrates

Parlament

1017 W i e n

Die Abgeordneten zum Nationalrat Dkfm. DDr. König und Genossen haben am 7. Dezember 1979 unter der Nr. 238/J an mich eine schriftliche Anfrage betreffend Haltungsveränderung Österreichs bei den Vereinten Nationen zugunsten des kommunistischen Kuba gerichtet, welche den folgenden Wortlaut hat:

- "1) Wann haben Sie erstmals den Herrn Bundeskanzler von der beabsichtigten Änderung im Abstimmungsverhalten verständigt?
- 2) Hat der Herr Bundeskanzler diese Änderung im Abstimmungsverhalten für Kuba und gegen Kolumbien gebilligt?
- 3) Teilen Sie die in der Debatte seitens des Abgeordneten Marsch geäußerte Auffassung, dass es sich bei Kolumbien auch um eine Diktatur handle?
- 4) Wenn ja, worauf stützen Sie diese Auffassung?
- 5) Wenn die Erhaltung der Funktionsfähigkeit des Sicherheitsrates und nicht die Wertung der beiden Staaten Kolumbien und Kuba für ihre Entscheidung massgeblich war, wieso haben Sie dann im ORF-Interview vom 7.12.1979 erklärt: "Es hat unsere Entscheidung erleichtert, dass hier gegen beide Staaten Vorwürfe erhoben werden können."
- 6) Welche konkreten Vorwürfe erheben Sie gegen Kolumbien, da Sie in einem ORF-Interview vom 7.12.1979 wörtlich erklärt haben: "Es hat unsere Entscheidung erleichtert, dass hier gegen beide Staaten Vorwürfe erhoben werden können."
- 7) Sind Ihnen Fälle bekannt, in denen kolumbianische Truppen als Aggressor aufgetreten sind?
- 8) Sind Ihnen Fälle bekannt, in denen kubanische Truppen als Aggressor aufgetreten sind?

- 9) Haben die USA und Kolumbien, als sie von Ihrer Seite über die beabsichtigte Handlungsänderung im Abstimmungsverhalten informiert wurden, Ihre Auffassung geteilt, daß andernfalls der Sicherheitsrat entscheidungsunfähig würde?
- 10) Warum haben Sie über die von Ihnen befürchtete Lahmlegung des Sicherheitsrates und die von Ihnen ins Auge gefaßte österreichische Handlungsänderung weder im Außenpolitischen Rat noch in der erst am 5.12.1979 stattgefundenen außenpolitischen Debatte des Nationalrates berichtet?"

Ich beehre mich, diese Anfrage wie folgt zu beantworten:

Zu 1) und 2):

Die Möglichkeit einer Änderung des österreichischen Stimmverhaltens betreffend die Wahl des mit 1. Jänner 1980 freigewordenen Lateinamerika zustehenden Sitzes als nichtständiges Mitglied des Sicherheitsrates war erstmals Gegenstand einer Aussprache in der "Ministerratsvorbesprechung", die unter dem Vorsitz des Herrn Bundeskanzlers am 19. November 1979 stattgefunden hat. Diese Aussprache führte allerdings noch zu keiner endgültigen Entscheidung. Die Änderung wurde vom Bundeskanzler gebilligt, wie er dies im Außenpolitischen Rat ausdrücklich festgestellt hat.

Zu 3), 4) und 6):

verweise ich auf den Kolumbien und Kuba betreffenden Abschnitt des Berichtes von Amnesty International für 1979.

Zu 5):

Da nach dem eben erwähnten Bericht von Amnesty International sowohl gegen Kuba als auch gegen Kolumbien Vorwürfe wegen Menschenrechtsverletzungen erhoben werden können, hatte schon aus diesem Grund dieser Umstand auf die Entscheidung zwischen den beiden Kandidaten keinen Einfluß. Die Entscheidung konnte sich daher auch unter diesem Gesichtspunkt ausschließlich vom Interesse an der Funktionsfähigkeit der Vereinten Nationen und ihren Organen leiten lassen.

Zu 7) und 8):

Nach der Satzung der Vereinten Nationen obliegt es dem Sicherheitsrat, das Vorliegen einer Aggression unter Bedachtnahme auf die Resolution 3314 der Generalversammlung vom 14. Dezember 1974 festzustellen. Mir ist kein Beschluß des Sicherheitsrates bekannt, mit dem Kolumbien oder Kuba als Aggressor festgestellt worden wäre.

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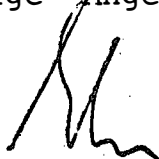
Zu 9):

Kolumbien hat sich dazu nicht geäußert. Die Vereinigten Staaten haben Zweifel an der Richtigkeit der Auffassung geäußert, dass der Sicherheitsrat mit nur 14 Mitgliedern entscheidungsunfähig sei. Diese Auffassung habe auch ich in dieser Schärfe nie vertreten. Ich verweise dazu auf meine Erklärung in der Sitzung des Nationalrates vom 7. Dezember 1979. Die Richtigkeit der von mir vertretenen Auffassung wurde inzwischen auch durch das vom Rechtsberater der Vereinten Nationen, Suy, in der Sitzung der Generalversammlung vom 31. Dezember 1979 verlesene Gutachten bestätigt.

Zu 10):

Da es sich bei Wahlen, die in ähnlicher Weise ständig notwendig sind, um keine grundsätzlichen Angelegenheiten der österreichischen Außenpolitik handelt, habe ich mich dazu nicht veranlasst gesehen.

Der Bundesminister  
für Auswärtige Angelegenheiten:



AMNESTY  
INTERNATIONAL  
REPORT  
1979

The following survey covers the period  
1 May 1978 to 30 April 1979.

## Colombia

Massive political arrests, allegations of torture, reports of extrajudicial killings, persecution of Indian peasants and controversy generated by a new security statute were constant themes in denunciations received by Amnesty International during yet another year under the state of siege, which has been in force with short exceptions since 1948.

Provided by article 121 of the constitution to cope with wartime conditions or serious internal unrest, the state of siege has become permanent. Justice José María Velasco Guerrero of Colombia's Supreme Court, one of several judges who gave dissenting opinions against the constitutionality of the security statute, stated: "A state of siege prolonged for more than 30 years is a frank manifestation that the institutional life of the republic is coming to an end."

The state of siege was initially promulgated during the period known as "*La Violencia*", a virtual civil war between adherents of Colombia's traditional parties, the Conservatives and the Liberals, which claimed the lives of 300,000 people between 1946 and 1958. After a brief military regime under General Gustavo Rojas Pinilla (1953-57), both Conservatives and Liberals agreed on a political formula whereby they could officially alternate in power and share bureaucratic posts in an agreement known as the *Frente Nacional* (National Front) that was in force from 1958 to 1978.

On 14 September 1977, a general strike (*paro cívico nacional*) paralyzed the country as the four major trade unions, political parties and popular organizations protested against the rising cost of living. Thirty-seven deaths and the arrest of up to 1,000 trade unionists marked this event. On 6 September 1978, a few days before the first anniversary of the general strike, a new security statute (*Decreto 1923, Estatuto de Seguridad*) was proclaimed. It was one of the first steps taken by the new administration of President Julio César Turbay Ayala, who won power in elections characterized by a 68 per cent abstention.

Articles 11 and 12 of the security statute eliminate appeals, give the judicial process to the soldiers and make it difficult for civilian lawyers to act for detainees. Articles 4 and 7 severely penalize and curtail public protests or petitions which "intend to put pressure on decisions of public authority".

There was widespread protest. The *Firmes* movement (a broadly based popular political front) noted that "the security statute confirms the fears of the people that the state of siege has not only been prolonged indefinitely but confirmed definitively".

From January to March 1979, Amnesty International received reports of human rights violations: massive political arrests, including arbitrary detention of entire families, allegations of torture, difficulties created for lawyers of political prisoners, violations of the Code of Penal Procedure, assassinations of local political leaders and members of peasant and Indian organizations.

An arms robbery from a military armoury in Usaquén, Bogotá, during the New Year holidays, for which the guerrilla movement *Movimiento 19 de Abril* (M-19) claimed credit, was the excuse for massive political arrests that began in January 1979. Arrests were extended to members of legal left-wing opposition groups, progressive Christian leaders, independent academics and journalists, students and slum dwellers, members of co-operatives and the Regional Indian Council of the

Cauca (CRIC), and foreign nationals, particularly Argentinian and Uruguayan refugees living in Colombia.

Amnesty International launched a series of urgent action appeals on behalf of those detained, among whom were the sociologist Orlando Fals Borda (eventually released) and his wife, television actor Carlos Duplat, the intellectuals Eduardo Pizarro and Augusto Lara Sanchez, Pedro Mogollón and Manuel and Jesús Pesca of the Jesuit-organized Program of Community Enterprises, five Argentinians and three Uruguayans and six Indian peasant leaders.

Before the security statute, a series of decrees had been issued that widened the powers of the military in the administration of justice: DL 2193 of 1976, which extended the jurisdiction of the *Consejos Verbales de Guerra* (Oral Councils of War) under the Code of Military Justice; DL 2194 of 1976, which severely limited the right of appeal before higher courts; DL 2195 of 1976, which curtailed public protest; DL 2578 of 1976, which allowed for the arrest of any person on mere suspicion "that he seemed likely to commit an offence"; and DL 0070 of 1978, which exempted members of the police and armed forces from responsibility for homicide resulting from certain military operations. This last decree was criticized as tantamount to a reintroduction of the abolished death penalty and a convenient excuse for extrajudicial killings.

Torture has a long history in Colombia. A well-substantiated document, *The Black Book of Repression*, published by the Solidarity Committee for Political Prisoners in 1974, presents a detailed account of torture, assassination and repression from 1958 to 1974.

Allegations of torture were made repeatedly, particularly after the passage of the security statute and the military operations in connection with the arms robbery in January 1979.

On 18 March 1979, Amnesty International issued an urgent action on behalf of six Indian peasant leaders of CRIC: Marcos and Edgar Avirama, President and former secretary, Taurino and Miguel Nuscue, Mario Escue and Laurentino Apusta: all six were first held at the headquarters of the Third Brigade in Cali, where they were allegedly tortured for more than 15 days by electric shocks applied to the head, legs and genitals; immersion in water and mud; burning of genitals with matches; hanging during whole nights; psychological torture such as threatened killing of families; and food deprivation.

On 2 February 1979, Amnesty International intervened on behalf of Pedro Mogollón and the Pesca brothers. In a statement signed on 24 January 1979 Pedro Mogollón alleged he had been tortured at the Cavalry School of the Military Academy in Bogotá. He was arrested on 8 January 1979 by members of the B-2, brutally beaten, blindfolded, forced to stand for hours, held incommunicado and not given food for several days. Electric shocks were applied to different parts of his body. The Attorney General's office ordered an investigation into his case a month and a half after the torture allegations were made, and concluded that "no external signs of violence" could be verified from their examinations. In his testimony he concluded: "At this time, the external evidence of physical tortures have practically disappeared. But the psychological torture can never be erased. It remains like a knife thrust in the brain."

Amnesty International has received many more allegations of torture from persons detained since January 1979 and recently protested against the dismissal

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of the Director of the Medical Institute, Dr Odilio Méndez Sandoval, who concluded that torture had been inflicted on 34 students in October 1978. A congressional committee made an independent inquiry into the torture allegations of the students: "solitary confinement, without food or drink for several days . . . left naked in the courtyard during whole nights and not allowed to sit down, forced to stand up by beating and kicking us in different parts of the body . . . electric shocks". It complained of lack of co-operation from the Attorney General's office and the new Director of the Medical Institute (a part of the Ministry of Justice), Dr Silva Pilonieta, who told the committee that the documents prepared by Dr Méndez proving the existence of torture could not be found.

The Catholic Bishops of Cúcuta and Pereira, Pedro Rubiano and Dario Castrillón, declared that "torture allegations have multiplied and the techniques of torture are being perfected".

As a reaction to mounting national criticism and international pressure, President Turbay affirmed in February 1979 in the province of Girardot: "No one, but absolutely no one in Colombia has been tortured. The authorities of the Republic are not torturing anyone. I have ordered the appropriate investigations and I can affirm that torture allegations are a simple stratagem."

On 23 March 1979, in statements to the press, General Luis Carlos Camacho Leyva, Minister of Defence, stated: "The problem of torture is already out of fashion . . . . International and national opinion has feverishly discussed torture but it has never been determined exactly what the tortures consist of, who carried them out and when people were tortured."

Political assassinations caused some 35 deaths in 1978. Gunmen reportedly hired by large landowners were responsible for deaths of peasants and members of the rural organization, the National Peasant Union (ANUC). Paramilitary groups and army personnel have also killed trade-unionists, leaders of popular movements and left-wing political opposition groups and student activists. In November 1978, the *Alianza Anticomunista Americana* (American Anti-communist Alliance) issued death threats against various members of the Supreme Court who gave dissenting opinions against the security statute, against lawyers of political prisoners and against the editor of a progressive weekly. Another group called *Escuadrón de la Muerte* (Death Squad) emerged in January 1979 threatening lawyers who defended political prisoners and the mass media which published denunciations of human rights violations. CRIC reported that, since its foundation in 1971 to defend the legal rights and the lands of Indian peasants of south-west Colombia, some 45 of their leaders had been killed, including Avelino Ul on 26 November 1978, and Benjamín Dindicué, from Tierradentro, on 4 February 1979.

In an open letter to Attorney General Guillermo Gonzalez Charry, the Association of Democratic Jurists protested against the obstacles put in the way of the defence: restrictions have made it difficult for lawyers to talk to their clients, threats have been made against them by the military commander of the School of Infantry, and a number of the lawyers have been detained. They charged that military justice has reversed the legal process: the accused are presumed guilty until the contrary is proved and their lawyers are not defenders but "accomplices" of the accused.

They also protested against a decree of 11 January 1979 establishing the prison island of Gorgona, known for its terrible living-conditions, as a maximum security

penitentiary for political prisoners.

A National Forum on Human Rights was held in March 1979 with the participation of political parties, trade unions, civic movements, peasant and Indian organizations, slum dwellers and professional groups, relatives of political prisoners and Catholic bishops.

Attention was called to the combination of exceptional measures taken by the government during the year. Together with the state of siege provided for by article 121 of the constitution, the security statute and the decree laws, the government has invoked article 28 of the constitution which empowers it to detain persons for up to 10 days without charge. Amnesty International received allegations that article 28 was applied retroactively and improperly. Not only were persons held incommunicado for more than 10 days without legal guarantees, but often their names did not even appear on the Council of State Ministers' list of persons attempting to disturb the public order, as required by the same article. Human rights groups claim that the army has been authorized to detain anyone on mere suspicion which is contrary to article 28. Furthermore, arrests were made as early as 3 and 4 January 1979, although it was not until 8 January that article 28 was invoked and not until 9 January that the Council of Ministers met to authorize the detentions.

The prolonged state of siege and periodic suspension of guarantees are limited by international covenants. For example, the American Convention on Human Rights (Pact of San José), ratified by Colombia, states in article 27 that even in times of the suspension of guarantees the following basic articles among others remain in force: article 4 (right to life), article 5 (right to humane treatment), article 9 (freedom from *ex post facto* laws), and "judicial guarantees essential for the protection of such rights". Moreover, when guarantees are suspended other state parties must be informed, reasons for the suspension given, and a date set for the termination of the extraordinary measures.

### *Cuba (the Republic of)*

Two important legal texts were approved by the National Assembly of People's Power in December 1978: a new Penal Code to replace the 1938 Code of Social Defence and a Code of Military Justice.

The summary of offences against the security of the state in the new code are similar to those previously defined by the Code of Social Defence – the fundamental legal code for political and criminal offenders. Among the articles which could perhaps be interpreted ambiguously are article 115 which imposes a penalty of 4 to 10 years' imprisonment on anyone who jeopardizes Cuba's friendly relations with another state, and article 121 which makes illegal the "dissemination of false information against international peace".

Article 237 of the Fourth Section of the code, which deals with offences against public order, provides a continuing legal basis for the imprisonment of conscientious objectors, although penalties would be less: "anyone who, in abuse of the religious freedom guaranteed by the constitution, opposes his faith or religious belief to the revolution, or to the exercise of his duty to work, to defend the country with arms, to revere the symbols and carry out other constitutional duties, incurs a penalty of between 3 to 9 months' imprisonment".



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Some penalties would be reduced under the new code, which now provides for a maximum term of 20 years' imprisonment except in cases where the death penalty has been passed but not carried out, in which case a 30-year term may be served. The death penalty is considered exceptional, but can nevertheless be passed for a wide range of offences including terrorism, piracy, rape and pederasty, hijacking and robbery with violence.

The Cuban National Assembly decided that the new Penal Code will come into force in August 1979.

Following an agreement with Cuban exiles in November 1978, President Fidel Castro announced in a press conference that the Cuban government would free 3,000 prisoners convicted for offences against the security of the state and a further 600 prisoners held for trying to leave the island illegally, at the rate of 400 a month beginning in December 1978. President Castro told foreign journalists that 3,328 were imprisoned for "offences against the revolution", and a further 425 for "offences committed during the Batista dictatorship". In addition, approximately 600 people were then imprisoned for attempting to leave Cuba illegally.

On 27 December 1978 the *Gaceta Oficial* published a list of 400 political prisoners who had been *total y definitivamente indultados* (totally and definitively pardoned) by the Council of State. At the end of January 1979, another list was published of 500 names. At the time of writing, 900 of the 3,600 have been released, of whom approximately 400 wanted to go to the USA.

At the end of November 1978, the United States Attorney General, Griffin Bell, said that the United States government would accelerate its screening procedures to permit the entry of 400 Cuban political prisoners per month, but in practice the procedures have been very slow and apparently the Cuban government has delayed the programme of releases accordingly. This seems to be a breach of the agreed number of 400 releases a month. In the view of Amnesty International the release of prisoners should not be conditional on the immigration procedures of a receiving government.

Amnesty International welcomed the releases, but is still concerned by the lack of precise information about the prisoners accused of "terrorist activities" or having committed crimes under the Batista regime. This concern was repeated in a memorandum sent to the authorities in August 1978, following an Amnesty International mission to Cuba.

Foreign observers reported that, while in general trials of Batista supporters were conducted fairly, there were other examples of unfair trials in the early years of the present regime by the *tribunales revolucionarios*.

One ex-prisoner, for example, who had been accused of sabotage in Oriente province and had been taken to Santiago de Cuba for trial, stated that he was given a court-appointed lawyer whom he had no opportunity to consult before the trial and was sentenced after proceedings lasting only 10 minutes. Amnesty International in its memorandum published in November 1978, urged the government, to give serious consideration to the revision of judgements of the *tribunales revolucionarios*.

Amnesty International welcomes the decision of the Cuban government to free all women political prisoners, including Dra Marta Frayde. Very few of the *plantado* category of political prisoners – only five or six – had been released under the programme of releases at the time of writing. The *plantados* are those

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political prisoners who have refused prison discipline as a protest against their treatment as common criminals.

A further Amnesty International mission to Cuba was envisaged in the discussions which took place in Havana in 1977 and referred to in the memorandum published in August 1978. No date has yet been agreed with the Cuban government.

#### *Dominican Republic (the)*

In August 1978 the new President, Antonio Guzman, took office. One of his first measures was to decree a general amnesty for political prisoners. About 200 prisoners benefited. He also repealed several laws which legalized political imprisonment – for example the law against “communist” activities. On the other hand, many exiles have not been allowed to return.

Amnesty International welcomed not only the general amnesty, but other positive measures taken by the present government such as the improvement of the judiciary and the reconstruction of some buildings in the main prison, La Victoria. But it is still concerned about an alleged political prisoner, Castulo Toussaint, who had, at the time of writing, not been released, and a prisoner who has been adopted for several years, Pablo Liberato Rodriguez, who, at the time of writing, had not been accounted for. He disappeared after being detained by police during the time of ex-President Baiaguer.

#### *Ecuador (the Republic of)*

Amnesty International's main concern was the detention and torture of members of the Tsamaraint family who belong to the Shuar (Jivaro) Indians from the jungle region.

In August 1978, a cattle dealer was killed in eastern Ecuador in the canton of Palora, province of Morona Santiago. Immediately after his death, all Shuar Indians living in the Yawints centre were arrested by armed police. All of them except for two minors – Cruz and Jorge Tsamaraint, who were between the ages of 15 and 17 – were released for lack of evidence. The two boys were reported to have been tortured during police interrogation before charges were laid against them. On 1 December 1978, Fidel, a third brother who works as a teacher at the Kaurapi Indian Centre, was arrested. Amnesty International launched urgent actions on their behalf as it was reported that they were badly beaten and subjected to electric shocks.

There were other torture allegations from political prisoners in Quito and from young recruits from the province of Esmeraldas in the north of Ecuador.

#### *El Salvador (the Republic of)*

Though repression continued and violence got worse, increased international publicity raised public awareness of violations of human rights.

On 13 October 1978, the International Commission of Jurists published a report on the application of the Law of Public Order, which concluded that “incidents of mistreatment of prisoners by the security forces are sufficiently numerous and interconnected to constitute a pattern or system”.

On 15 December 1978, a British parliamentary delegation reported that it had