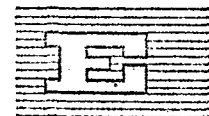


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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD,
WITH PARTICULAR REFERENCE TO COLONIAL AND
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Study by the Special Envoy of the Commission on
Human Rights, Professor Héctor Gros Espiell,
appointed pursuant to resolution 34 (XXXVII) of
the Commission on Human Rights of 11 March 1981,
on the human rights situation in Bolivia

ADDENDUM

Note by the Special Envoy:

The Special Envoy presented his report in accordance with resolution 34 (XXXVII) of the Commission on Human Rights on 28 January 1982. By that resolution 34 (XXXVII) the Commission had requested the Special Envoy

"to discharge his mandate with due regard for discretion and equity and to report on his findings to the Commission at its thirty-eighth session in a manner which would give the Bolivian Government adequate opportunity to comment in writing on the contents of the report."

Accordingly on 20 November 1981 the Special Envoy sent the report to the Government of Bolivia for the comments. On 28 January 1982, the Special Envoy, not having received these comments by that date, informed the Commission 1/ that these comments would be issued in the form of an addendum to the report. The Special Envoy received the comments of the Government of Bolivia dated 19 February 1982, which are reproduced hereunder.

*/ Reissued for technical reasons.

1/ E/CN.4/1500, para. 142.

Mr. Theo C. van Boven,
Director,
Division of Human Rights,
Geneva.

Sir,

Further to my note, No. GV/122/81 of 23 December 1981, I have pleasure in addressing you herewith some of the Government of Bolivia's comments on the report by your Special Envoy, Professor Héctor Gros Espiell. I would point out that, in my capacity as Permanent Representative, I shall reply to any questions which the distinguished members of the Commission on Human Rights may wish to put in the course of the appropriate plenary meeting, thus amplifying if need be the scope of these comments.

I

As regards the Introduction and Background information, (chapters I and II, paragraphs 1 to 22), these summarize the events and formalities which resulted in the official visit of the Special Envoy to Bolivia, in accordance with the Commission's mandate and with the agreement and co-operation of the Government of Bolivia.

II

With reference to chapter III, the International legal framework (paragraphs 23 to 28), the Government of Bolivia is carrying out the legal studies necessary for signing and ratifying or adhering to a number of international instruments, including those relating to human rights. This is, of course, without prejudice to the obligations deriving from the United Nations Charter and the Universal Declaration of Human Rights which Bolivia signed and ratified as a founder Member of the organization.

III

1. With reference to chapter IV, the Internal juridical framework (paragraphs 29 to 32), although the Political Constitution of the State is the fundamental juridical instrument, it is certainly true that there are also a number of provisions of a transitory nature which have restricted the full force of the Constitution for reasons of internal order. At all events, it is appropriate for me to point out at this juncture, in connection with paragraph 31 of the report and as evidence of the Government of Bolivia's will to correct anomalies and progressively arrive at the exercise of human rights, that the list presented below updates the list drawn up by the Special Envoy:

(a) The Government Statute concerning the Armed Forces, which designated the Board of Commanders-in-Chief as the supreme organ of the State has been repealed.

(b) The Decree of Good Government of 18 July 1980 has been repealed.

(c) Supreme Decree No. 17 530 of 19 July 1980 has been repealed.

(d) Supreme Decree No. 17 531 remains in force and the Government has ordered the gradual development of trade unionism contemplated in the Three-Year Plan of Government, whereby the trade union organizations are allowed to reorganize their Base Committees, starting in the mining sector; this is aimed at replacing the labour co-ordinators who were appointed by Supreme Decree No. 17 545 of 12 August 1980.

(e) Supreme Decree No. 17 536 of 30 July 1980 remains in force.

(f) Supreme Decree No. 17 554 of 18 August 1980 has been repealed.

(g) Decree-Law No. 17 607 of 17 September 1980 remains in force.

(h) Decree-Law No. 17 698 of 17 September 1980 has been repealed.

(i) Decree-Law No. 17 612 of 17 September 1980 remains in force.

(j) Supreme Decree No. 18 187 of 13 April 1981 remains in force.

(k) The Reform of the Government Statute concerning the Armed Forces has been repealed.

(l) The Decree of 4 August 1981 under which the Armed Forces as a collegiate body assumed the supreme command of the nation has been repealed.

(m) Decree-Law No. 18 564 of 25 August 1981 has been repealed.

(n) The Armed Forces decision of 3 September 1981 remains in force.

2. With respect to paragraph 32 of the Special Envoy's Report, it is appropriate to repeat that the legal acts and measures promulgated by the Armed Forces in exercising public authority have always been of a transitory nature and that, to date, many of the earlier measures have been totally and others partially repealed. At present, the ultimate repeal of other measures which are still in force is under consideration, for the purpose of continuing the process of the Three-Year Plan of Government begun on 4 September 1981 which contemplates, inter alia, the re-establishment of the national institutions and the return to full operation of the public authorities of the State.

IV

With reference to chapters V, VI and VII (paragraphs 32 to 35), there are no significant comments to make since they form part of the Special Envoy's methodological and operational framework.

V

1. The Government of Bolivia wishes to emphasize that, motivated by a broad spirit of co-operation, it has responded promptly to the enquiries made, especially by the International Labour Organisation and by the Organization of American States. In these circumstances, the Government of Bolivia would like it to be borne in mind that the wide field covered by Professor Gros Espiell's visit, his resulting report and these comments, plus those which may be provided in the plenary meeting and others

which it may be necessary in the future to send to the Division of Human Rights, form part of the higher legal context of the United Nations and may therefore serve as reference material for any anxieties or questions which other agencies of the United Nations system may have.

2. On the other hand, while reiterating yet again its will to co-operate with the international community, the Government of Bolivia expresses its disagreement with the reports presented by non-governmental organizations, in view of the fact that they are not always the product of impartial judgements and analysis, but prefer rather to present biased and damaging images of the Bolivian situation.

VI

As regards Chapter IX (paragraph 40), it is considered that, within the mandate given by the Commission on Human Rights to the Special Envoy, it is highly advisable that the specific time frame covered by the report should be defined.

VII

1. In Chapter X (paragraphs 41 to 56), the Special Envoy summarizes, for information purposes, the various political developments in Bolivia during the period of his report, with a brief reference to events prior to 17 July 1980, events which, in actual fact, did not occur in such a mechanical way since the process of Bolivia's democratic opening should be traced back to 1977. From then on, there were various cases of electoral fraud, political stagnation, some outbreaks of terrorism, two Acting Presidents (for want of the absolute majority prescribed in the Constitution) and other anomalies which it would take a long while to explain, all caught up in the difficult and arduous process of national political development and thus requiring a meticulous and wide-ranging analysis, going far beyond what appears in the report and certainly beyond the summary in these comments.

2. At all events, as the Special Envoy very well shows, since 4 September 1981 Bolivians have been guaranteed respect for their human and constitutional rights, as has been stated by His Excellency, General Celso Torrelio Villa, President of the Republic, and His Excellency, Doctor Gonzalo Romero Alvarez García, Minister for Foreign Affairs and Worship, with respect to whom it should be noted that what is stated in paragraph 52 is incorrect because he has not belonged to the Bolivian Socialist Falange Party since 15 February 1969.

3. At the risk of being repetitive, I must point out the Government of Bolivia's firm desire to overcome the anomalous political and electoral situations of the past and to give full force to human rights. To this end, the process will necessarily have to have a time-table drawn up precisely with the aim of preventing the re-creation of earlier situations and in the firm belief that it will ensure the Republic a solid and stable return to fully democratic institutions, as our Minister for Foreign Affairs and Worship put it on 9 October 1981 to the General Assembly of the United Nations.

4. A first substantive advance is to be seen in the repeal of some emergency measures and also in the Agreement of 19 December 1981 between the Government and the mine workers which dealt with the full recognition of the Bolivian workers' right of association and with other guidelines for harmonious discussion and agreements with a view to re-establishing free trade unions. These aspects have been explained in detail to the appropriate international body, the International Labour Organisation.

VIII

1. Chapter XI (paras. 57-59) is governed by the Special Envoy's heuristic criteria for the evaluation of information and documentation. In any event, it must be pointed out that, when the Special Envoy states in paragraph 57 that: "these allegations are cited for information purposes only; reference to them in no way implies that the facts contained in the above-mentioned information and communications are accepted or, on the other hand, rejected", although his intention was undoubtedly to remain strictly neutral and make no assessments, the ambiguity of the wording may give rise to value judgements which are not necessarily substantiated by genuine facts.

2. On the other hand, the information includes document E/CN.4/L.1411 despite the fact that the Special Envoy himself quotes, in paragraph 6 of the report, the decision of the Commission on Human Rights regarding that document which "should not be considered" (see Economic and Social Council, Official Records, 1981, Supplement No. 5 - E/CN.4/1475).

IX

1. With respect to chapter XII of the Special Envoy's report (paras. 60-69), the Envoy uses the conventional method of quoting various articles of the Declaration of Human Rights and, in parallel, the relevant domestic legislation.

2. With respect to paragraphs 63, 64, 65 and 66, the present Government of Bolivia has, on a number of occasions, stated and now reiterates its deep regret concerning some inevitable acts of violence which occurred in the past, but acts which in no way reached the dimensions claimed in the allegations and accusations submitted by various organizations that are inclined to distort the facts by exaggerating situations and putting forward unilateral versions devoid of objectivity and truth. For what it is worth, a copy is included in the annexes to these comments of a list submitted recently to the International Labour Organisation with information concerning the present situations of various persons.

3. I must reiterate here the Government's conclusion regarding the subjective partiality of the non-governmental organizations that have submitted the bulk of the allegations regarding violations. The Government of Bolivia once again reaffirms its desire to co-operate and, if the Commission on Human Rights should so decide, it is prepared to give an exhaustive reply to these concerns, which it is unwilling to do in the case of the non-governmental organizations for the reasons given in paragraph V, 2 and in this paragraph.

4. With regard to the specific anxieties of the Special Envoy (paragraph 65 of the report), I wish to state that, as far as habeas corpus and the remedy of amparo are concerned, the Government of Bolivia has never impaired the rights of the citizens, as set out in the Political Constitution of the State, (articles 18 and 19). Press cuttings which corroborate this statement are included in the annex.

5. Paragraph 66 of the Special Envoy's Report refers to the right to enter, remain in, travel through and leave the national territory. In this connection, I reiterate what was said by the Minister of the Interior to the Special Envoy in that same paragraph and always within the context of the provisions of the Three-Year Plan of Government. On the other hand, the Government of Bolivia will do its best to assist the United Nations High Commissioner for Refugees to achieve his objectives of arranging for the return of Bolivian citizens to the country on a broad and permissive basis, with due regard for the background of the past, the circumstances of the present and the even more favourable circumstances which assuredly will occur in the near future.

6. With regard to paragraph 67, referring basically to freedom of expression at all its levels, I have pleasure in informing you that, on 9 December 1981, the Government of Bolivia suspended the official radio link, expressly stating that national-level radio stations were free to carry out their work responsibly, the only restrictions being that they had to respect the legal provisions governing their activities.

7. On the other hand, it is a definite fact that the Government inaugurated on 4 September 1981 has ensured full liberty of expression for the press media, a freedom of expression which the Special Envoy was able to experience for himself during his visit to Bolivia.

8. With respect to paragraph 68 of chapter XIII, referring to the classification and analysis of the chief violations of human rights alleged or accused, I repeat what was said in section VII, paragraph 1, of those comments regarding the inadvisability of painting too mechanical a picture of the domestic political evolution of the Bolivian nation, which can reflect only partially the innumerable circumstances which motivated the temporary suspension of the political rights of the citizens, rights which, on the other hand, it is the firm intent of the Government of Bolivia to restore within the next three years, after the adoption of new legal provisions making it possible to create the necessary conditions to achieve a modern State with genuinely representative and sufficiently solid democratic institutions, so as to avoid any repetition of the sad events of the recent past. As was so well expressed by His Excellency the President of the Republic of Bolivia, the task in the politico-institutional area is "1. To work out in consultation with the representative sectors of the country the preliminary draft of the Political Constitution of the State to be submitted for consideration to a Constituent Assembly; 2. To work out, in concertation with those representative groups, the draft Law of Political Parties; 3. To work out, in consultation with groups representative of public opinion, reforms in the Electoral Law; 4. To work out the Municipalities Law, and 5. Gradually to institutionalize the public authorities".

9. With respect to paragraph 69, mention has already been made of the opening of a dialogue with the labour sectors and the information in that respect which the Government of Bolivia has submitted, through its Mission at Geneva, to the International Labour Office.

Chapter XIII (paras. 70-119) which refers specifically to the Special Envoy's visit to Bolivia.

1. This visit took place within the context of resolution 34 (XXXVII), endorsed by a resolution of the Economic and Social Council, a provision that the Government of Bolivia, in the exercise of its sovereign powers, accepted and invited Professor Gros Espiell to visit the country, offering him every facility for the successful accomplishment of his task.
2. It is important that the distinguished members of the Commission on Human Rights should take note of this voluntary and sovereign act of the Government of Bolivia which has stated, yet again, its firm intention to co-operate actively with the international community, of which it is a full member, and give the maximum information to the Special Envoy, thus taking its responsibilities seriously, as it informed the Commission at its previous session.
3. Along these lines and, as set forth in paragraph 77 of the Report, the Special Envoy sums up his conversation with the President of the Republic of Bolivia, a conversation which outlined the positive aspects of the full restoration of human rights to which the Government has been committed since 4 September 1981. In particular, note should be taken of the complete dissolution of the Special Security Service (SES), an aspect that was of concern to the Special Envoy. Moreover, as far as the compulsory radio link is concerned, this has ceased to be active, as stated earlier in these comments. In his interview with the Special Envoy, the President reiterated the Government's decision progressively to ensure full respect for human rights.
4. With respect to paragraph 79, I wish to reiterate that a preliminary draft organic law is in preparation that will recognize university autonomy and regulate the activities of the national universities on a permanent basis.
5. In paragraphs 80 to 119, the Special Envoy gives an account of the substantive aspects of his visit and stresses the co-operation offered at all times by the Government of Bolivia, which made it possible for him fully to carry out his mandate from the Commission on Human Rights. It only remains to reiterate, once again, in these comments the intent to co-operate with positive actions in the future, to eliminate the acts which unfortunately occurred in the past, also taking into account the damage to and sufferings of the Bolivian people resulting from the international isolation of which it was the object, an unjust blockade which the Special Envoy has himself noted and set forth in his conclusions (para. 139), with great clarity and honesty. This value judgement should be duly appreciated and assessed by the distinguished members of the Commission on Human Rights not only with respect to Bolivia but also within the full spectrum of international situations which forms the universal concept of human rights.

XI.

As pointed out by Professor Gros Espiell when explaining his methodology, the Special Envoy's report, which ends with chapter XIV (Conclusions, paras. 120-142), contains his own particular assessments, without representing cases that are legally proven.

1. The Government of Bolivia considers that the gradual advance of domestic détente and the opening up of political and trade union freedoms within the planned three-year process are clear and imminent positive steps which demonstrate a sincere and genuine interest in achieving an effective constitutionalization of the Bolivian State.

2. The Government of Bolivia maintains its firm and sincere desire to co-operate with the Commission on Human Rights of the United Nations at all levels and in every way. Within the domestic order - as the Special Envoy himself corroborates and as has been pointed out in the various paragraphs of these comments - there has been a clear improvement in the human rights situation in Bolivia. It should be added that the National Government is ready to receive all positive suggestions from the international family of which it forms part, in the area of human rights as in the many others which make up mutual international co-operation and assistance.

Lastly, the Government of Bolivia wishes to reiterate through you, Sir, to the distinguished Commission on Human Rights the hope that, when it analyses the situations that have occurred in Bolivia, it will take into account not only these comments but also the historical difficulties inherent in the long and arduous process of forming the Bolivian nation. Bolivia, after having been one of the first countries in the Americas to proclaim its desire for freedom, was paradoxically one of the last to achieve its formal independence. From then on, the national history is to be found in the context of a struggle to forge its own cultural identity, in the tragic framework of many territorial mutilations, with the dramatic loss of its coastline which deprived Bolivia of the great opportunities open to other countries with access to the sea in the first stages of their development. While it is impossible, Sir, to summarize in a single paragraph the history of a people, it is necessary when analysing specific national situations to bear in mind always the full social, economic and cultural context forming the Republic of Bolivia which, despite its serious problems, has always played an active part in the fight for democracy, including supplying its vital minerals at ridiculously low prices during the Second World War, thus making its own contribution of sacrifice to the campaign for freedom against totalitarianism. Bolivia, based on the vigour of its people and on the potential of its vast natural resources, is a full member of the international community as a developing country and hopes that the community will understand the full significance of its great problems which, together with the hope of a better future, we certainly share with many of the countries that are at similar stages of their social, economic and political evolution and which undoubtedly have repercussions on specific situations, such as that which is the object of these comments.

I take this opportunity, Sir, to assure you of my highest consideration.

(signed) Agustín Saavedra Weise
Ambassador
Permanent Representative

ANNEXES: Various documents and press cuttings.

These annexes are available in the Secretariat for consultation by any members of delegations who so desire.