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INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Letter dated 1 November 1979 from the Permanent Representative of
Panama to the United Nations addressed to the Secretary-General

On instructions from the Ministry of Foreign Affairs of Panama, I would request you to have the attached letter dated 20 October 1979, addressed to you from Mexico City by Moriana Hernández de Bazzano, a Uruguayan national, circulated as an official document of the General Assembly under agenda item 84, in connexion with document A/C.3/34/3.

(Signed) Jorge E. ILLUECA
Ambassador
Permanent Representative

ANNEX

Letter dated 20 October 1979 from Moriana Hernández de Bazzano
addressed to the Secretary-General

The Permanent Mission of Uruguay to the United Nations has had a document (A/C.3/34/3) circulated which refers to the decision taken by the Human Rights Committee in a case brought before it, a decision which appears in the report of the Human Rights Committee (A/34/40, annex VII).

The statement of the Government of Uruguay is inappropriate and inadmissible since it is not for the Assembly to review a decision taken by the Human Rights Committee. However, in view of the fact that it represents an attempt to impugn the bases for that decision, I think it is fair that I, in turn, should be allowed to point out the fallacies and untruths of which the Government of my country is guilty in its statement.

(1) The so-called "hastiness" of the Committee. The Government of Uruguay complains that the Committee did not grant it "a reasonable extension" of time to reply.

My communication was dated 15 February 1977. It was transmitted to the Government of Uruguay, which raised formal objections. The Committee considered those objections and, on 1 February 1978, declared that the case was admissible. At the same time, it stated that the Government of Uruguay should provide information on the merits of the communication within the six-month time-limit stipulated in the Optional Protocol. That time-limit had already elapsed when the Committee held its fifth session, in October 1978, yet the Committee did not at that time take any decision. At its sixth session, in April 1979, the Committee had before it a note from the Government of Uruguay which omitted any reference to the merits of the communication and merely raised once again questions relating to its admissibility. Despite my urgent entreaty that the Committee should at least take a definitive decision at that time, it did not do so: on the contrary, it allowed the Government a further extension of six weeks. Finally, at its seventh session, when that time-limit had also more than expired without any reply being received, the Committee gave its final decision. Seventeen months - not six - had elapsed without any information being received from the Government.

(2) The attitude of the Government of Uruguay towards the Committee. Reference is made to "the clear intention to co-operate expressed on various occasions by Uruguay".

I have already indicated above how that "intention to co-operate" was in fact manifested: no reply was ever received in 20 months to the request of the Committee for information. The note which has now been circulated provides the first information with regard to the case.

(3) The submission of the case to the Inter-American Commission on Human Rights. It is stated that the case has been submitted to that organ. It was submitted to it well before my communication to the Committee and was withdrawn by those who had submitted it. The Committee took that circumstance into account in declaring that the case was admissible.

It should, moreover, also be noted that, while the case was before the Inter-American Commission, the Government of Uruguay never replied in any way to a request for information which that organ addressed to it in March 1976.

(4) What offence did the victims commit? The Government of my country has never stated what offences the detainees committed. It is important to point out that it does not do so now either. It gives the titles of various offences under the Military Penal Code, but nowhere does it state what acts the victims were alleged to have committed. The statement that the military judges found the offences proved is insufficient when the Committee has just declared that it finds that the procedure followed did not offer the minimum guarantees required. Of Dr. Massera it is stated that the military judge found him guilty of "committing the offence referred to in article 60 (V) of the Military Penal Code, namely, 'subversive association'". It is further stated that "subsequently, after new evidence had been brought to light, he was also accused of the offences covered in article 60 (i), subparagraph 6, in relation to 60 (XII) of the Military Penal Code, namely, 'attack on the Constitution in the degree of conspiracy followed by preparatory acts' committed in a 'concurrent offence not involving recidivism' ... and article 58, paragraphs 2 and 3, of the Military Penal Code, namely, 'attack on the morale of the armed forces'". Is it conceivable that the Human Rights Committee should declare itself satisfied and convinced by this string of titles of military offences? Why is it not stated what acts were proved by the "new evidence" that my step-father, an engineer, mathematician and former Deputy to the National Assembly, had committed an "attack on the morale of the armed forces"?

I cannot fail to mention here, since it is not a matter of determining whether rights have been violated - it is for the Committee to determine whether that is so, and it has done so - but of understanding the attitude of a Government when it has been seen to have committed such violations, that the victim and his situation have aroused a most irate and unanimous reaction throughout the world. Dr. Massera is an eminent mathematician whose suffering has aroused solidarity and protests in all continents, and I am certain that this case is not new to the General Assembly. I mention this not because the merits of the victim make the torture more deserving of condemnation in his case than in others, but because the indifference of the Government of Uruguay in the face of the angry sentiments expressed by innumerable individuals and institutions makes clear the bold obstinacy of that régime.

(5) The medical report on Dr. Massera. This report is the first and only reaction of the Government of Uruguay to a request by the Human Rights Committee, made at my behest, for information on the state of health of my step-father. This requested was transmitted 17 months ago.

I cannot express an opinion on the accuracy of the report, nor on the credence which should be given to it. It should be pointed out that it bears no date. However, it confirms the existence of the same injury of which, so long ago, I informed the Committee: a fracture of the hip which left my step-father permanently affected.

(6) The statement attributed to Dr. Massera. It is difficult to imagine the purpose of this "certified record" of which the text is given. There is no indication of where, before whom, in what circumstances or in what place this statement was made. There are good reasons for this since on the date indicated - January 1977 - my step-father was being subjected to an inhuman and abusive régime which, with all the details available, I described to the Committee in my communication, to which no reply was ever received.

Even though Dr. Massera may indeed have signed this certified record - something which I do not know and do not accept - it would be legally null and void: Uruguayan law requires the presence of the counsel for the defence and the judge and it is apparent from the statement itself that it was not made under those conditions.

Furthermore, it is so improbable as to be ridiculous. How could my step-father state that he had "recovered completely" when the medical report itself states that he has "restricted movement in right hip"? Is it conceivable that to the simple question "Why were you arrested?" Dr. Massera should reply spontaneously and at length, giving details which are unequivocally those which his captors wished to receive in order to find him "guilty"? It is sufficient to note the final clause, in which the statement that no "physical or psychological pressure of any kind" forms part of a stereotype of the conclusion of a certified record, as if that subject (torture or correct treatment) could be confused with the formulae of the bureaucratic ritual ("The above having been read to me, I confirm its contents ... sign an original and five copies ..."). All this shows that the document, far from being the authentic expression of the person making the statement (no human being would express himself thus!), is a forged text, the signature on which, if it exists, can only be explained by coercion.

Moreover, where is this document? Why is the text given and the document itself not provided? Why was it sent to the Assembly and was never sent to the Human Rights Committee? What value can a document have which was not cited in time, which is presented out of all context, which attributes to the person making the statement an improbable attitude, which reflects neither his way of thinking nor his style, and which would be legally null and void in accordance with Uruguayan law even if it was authentic?

Through you, I request the General Assembly, whose authority and responsibility in the matter of human rights clearly derive from the Charter of the United Nations, to take more effective measures to express the urgent demand of the world community that this decision of the Human Rights Committee should be complied with. To do otherwise would be to allow the Government of my country to

treat with contempt and disregard the verdict of an organ which is the most complete and perfect so far established by the United Nations in this sphere, which the Assembly itself has commended for its restraint and its prudence, and which has expressed its views in an impartial, unequivocal and concise manner.

In view of the fact that the offending State has been able to have the statement which I refute circulated as an official document of the General Assembly, I believe that the Assembly should have before it this reply on behalf of the victims. I therefore hope that this note will receive the same circulation.

(Signed) Moriana HERNÁNDEZ DE BAZZANO

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