

European Communities

EUROPEAN PARLIAMENT

Working Documents

1983-1984

24 October 1983

DOCUMENT 1-902/83

Report

drawn up on behalf of the Political Affairs Committee

on persons missing in Argentina

Rapporteur : Mr A. CARIGLIA

PE 82.307/fin.

The European Parliament referred the following motions for resolutions tabled pursuant to Rule 47 of the Rules of Procedure to the Political Affairs Committee:

- On 15 June 1981, the motion for a resolution tabled by Mrs SCRIVENER and Mr COMBE on Community intervention on behalf of the children and babies missing in the Argentine Republic since 1976 (Doc. 1-279/81),
- On 15 February 1982, the motion for a resolution tabled by Mrs GAIOTTI DE BIASE concerning missing children in Argentina (Doc. 1-993/81),
- On 13 September 1982, the motion for a resolution tabled by Mr MOORHOUSE and others on the disappearance in Argentina of Jaime Barrera Oro and Richard Chidichimo (Doc. 1-512/82).
- On 18 May 1983, the motion for a resolution tabled by Mrs DURY on the problem of forcible abduction (Doc. 1-312/83).

At its meeting of 27-29 January 1982, the Political Affairs Committee decided to draw up a report on persons missing in Argentina.

At its meeting of 22-24 March 1982, the committee appointed Mr CARIGLIA rapporteur.

The committee discussed its draft report at its meetings on 28-30 September 1983 and 17-18 October 1983 and at this last meeting adopted the draft report unanimously.

The following participated in the vote: Mr Haagerup, acting chairman (first Vice-president); Mr Fergusson, third Vice-president; Mr Cariglia, rapporteur; Mr Antoniozzi, Mr Barbi, Lord Bethell, Mr Deschamps, Lady Elles, Mr B. Friedrich, Mrs Gaiotti de Biase (deputizing for Mr Rumor), Mr Galluzzi (deputizing for Mr Pajetta), Mr Gawronski (deputizing for Mr Bettiza), Mr Habsburg, Mr Israel (deputizing for Mr de La Malène), Mr Klepsch, Mrs Lenz, Mr Majonica (deputizing for Mr von Hassel), Lord O'Hagan, Mr d'Ormesson, Mr Ripa di Meana (deputizing for Mr Zagari), Mr Schall, Mr Seefeld (deputizing for Mr Hänsch), Mr Segre.

This report was tabled on 18 October 1983.

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The Political Affairs Committee hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on persons missing in Argentina

The European Parliament,

- recalling the resolution it adopted on 18 November 1982 on the events in Argentina¹,
 - recalling the resolution it adopted on 13 October 1983 on the situation in Argentina²,
 - recognising the valuable work of the Working Group on Disappeared Persons established by the UN Commission on Human Rights,
 - having regard to the resolution adopted by the Commission on Human Rights on 17 February 1983 during its 39th session in Geneva,
 - having regard to the motion for a resolution tabled by Mrs SCRIVENER and Mr COMBE on Community intervention on behalf of the children and babies missing in the Argentine Republic since 1976 (Doc. 1-279/81),
 - having regard to the motion for a resolution tabled by Mrs GAIOTTI DE BIASE concerning missing children in Argentina (Doc. 1-993/81),
 - having regard to the motion for a resolution tabled by Mr MOORHOUSE and others on the disappearance in Argentina of JAIME BARRERA ORO and RICHARD CHIDICHIMO (Doc. 1-512/82),
 - having regard to the motion for a resolution tabled by Mrs DURY on the problem of forcible abduction (Doc. 1-312/83),
 - having regard to the report of the Political Affairs Committee (Doc. 1-902/83),
- A. Having considered the report and resolution on human rights in Argentina by the Inter-American Commission on Human Rights of the Organization of American States,
 - B. Whereas not enough has yet been done to throw light on the tragic problem of missing persons,
 - C. Convinced that the European Community must do all in its power to protect human rights in this sector,
 - D. Whereas the victims include innocent children,

1 OJ No. C 334, 20.12.1982, pages 78-79

2 OJ No.

E. Whereas the gradual restoration of democracy in the country could help to further the investigations and identify those responsible, ignoring the amnesty law adopted by the military authorities to apply to their own personnel.

1. Urges the Foreign Ministers of the Community to:

- (a) make joint and regular representations to the Argentine authorities to liberate all those detained or imprisoned for political reasons
- (b) repeat to the Argentine government to be elected on 30 October 1983 the request for detailed information on the fate of those who have disappeared or have been detained during the last six years
- (c) ascertain what has happened to the missing children
- (d) request the United Nations Secretary-General, Mr Perez de Cuellar, to open an international inquiry to throw light on these tragic events as soon as possible;

2. Condemns the Argentine Government for failing to take any action following the resolution adopted by the European Parliament on 18 November 1982;

3. Instructs its President to forward this resolution to the Council, the Commission, the Foreign Ministers meeting in political cooperation and the Secretary-General of the United Nations.

EXPLANATORY STATEMENTA - The political situation in Argentina up to 1976

1. Although the tragedy of persons missing in Argentina since the military coup d'état in 1976 is so outrageous as to defeat all rational explanation, it is nevertheless part of the recent history of this South American country.

2. It was only in 1973, after seven years of government by the armed forces, that democracy was restored in Argentina. The elections held that year were won by the Peronist Frente Justicialista de Liberación, and Hector Campora was elected President but resigned after three months to allow General Peron to be elected President and his wife, Maria Estela Martinez de Peron (better known as Isabel) Vice-President.

Guerrilla incidents triggered off by extreme right-wing groups and extreme left-wing Peronist groups had assumed such proportions in Argentina that even before the Congress could approve a series of anti-terrorist measures in January 1974, Peron declared: 'If we do not have the law (to combat terrorism) we shall do it outside the law, and we shall do it violently'¹.

3. General Peron died in July 1974 and was succeeded by his wife. In the two weeks following his death, there was an outbreak of unprecedented violence in Argentina due mainly to the emergence of the extreme right-wing group, Alianza Anticomunista Argentina (AAA), which is responsible for many assassinations and abductions. The AAA frequently shows police credentials to force its way into the homes of the victims and publishes lists of figures in the political and cultural walks of life that it intends to kill.

Meanwhile, the Trotskyist Esercito Rivoluzionario del Popolo (ERP) was held responsible for the assassination of the former Minister for Internal Affairs, Arturo Mor Roig, and the editor of a La Plata newspaper, 'El Dia' on 15 July.

By the end of September 1974, the number of assassinations since the death of Peron was estimated to be around 100.

4. Between July and September there were specific guerrilla-like encounters between the ERP and the army. The government for its part approved a whole series of anti-terrorist measures at the end of September and the ERP proposed an armistice provided that:

¹ Quoted in Keesing's Contemporary Archives, weekly diary of world events, 1974, page 26,622

- 1 - all political prisoners were liberated,
- 2 - the repressive legislation was abolished,
- 3 - the decree outlawing the ERP was revoked.

The government rejected this proposal on 8 October.

5. On 6 September 1974, the extreme right-wing Peronist group, the 'Montoneros', which had stopped being a clandestine movement in October 1973 and come out in support of Peron, issued a war communiqué announcing a return to clandestinity and the revival of a popular war against the government of President Isabel Peron. This move obviously endangered those members of the movement who were not members of its armed wing and exposed them to repression by the government and right-wing terrorist forces such as the AAA.

6. Despite the anti-terrorist measures passed in September 1974, political violence assumed such dimensions that the government proclaimed a state of siege on 6 November, and in February 1974 invited the army to join in the fight against the guerrillas.

Under the state of siege searches were permitted without warrants and habeas corpus and the right of association were suspended. In the six weeks following the state of siege some 1,200 people were arrested. In the province of Tecumán, some 5,000 men from the army and the police force intervened to put an end to the ERP's guerrilla activities.

7. In July 1975, the Minister for Social Welfare and Private Secretary to the President, José Lopez Rega, was forced to resign and leave the country: the main reason that prompted President Isabel Peron to take this step was the fact that Lopez Rega had been more or less unanimously accused of being a member of the Alianza Anticomunista Argentina (AAA): a group of Peronist deputies in fact accused him of being its creator and instigator.

8. In the course of 1975, meanwhile, both the 'Montoneros' and the ERP launched various military attacks against the government forces. On 6 October, the government prolonged indefinitely the state of siege proclaimed the previous year. In 1975, the number of victims of guerrilla activities and action by AAA fascist squads was estimated to be 1,000.

B - The military coup d'état in 1976: the missing persons tragedy

9. The increasingly chaotic situation led to more and more insistent calls for the resignation of President Isabel Peron until the army under the leadership of General Videla took power and set up a three-man military junta led by Videla himself.

The junta dissolved the Congress, suspended the activities of the political parties and trade unions and removed most government officials from their posts.

The death sentence was proclaimed for guerrilla activities. President Videla announced that violence would be brought to an end immediately, but between 24 March, when the military junta took over power, and 21 April some 150 people were assassinated, most of them from extreme right-wing groups.

10. The military government gave free rein to unprecedented repression throughout the country and it is in fact from this moment that the mass disappearances begin. As pointed out in the pamphlet 'Los niños desaparecidos'¹, published by the Centro de Estudios Legales y Sociales in Buenos Aires, the repression in Argentina has few parallels in contemporary history. According to the pamphlet, the main feature of the system used which distinguishes it from others like it in Latin America is the almost total secrecy surrounding the proceedings. The detention of persons followed by their disappearance and the refusal of the authorities to accept any responsibility is the key to the method conceived and used by the armed forces government against suspects and active dissidents.

11. A delegation from Amnesty International visited Argentina from 6 to 15 November 1976. The report published in March 1977 revealed that between 5,000 and 6,000 political prisoners had been detained in Argentina without being either charged or tried. Summary executions had also been carried out by the police and the army, and torture was widely used. Death squads were tolerated by the government.

In 1976, many exiles from other Latin American countries who had taken refuge in Argentina were killed, a sign of the degree of cooperation between the secret services in the various dictatorships in South America (Argentina, Chile and Uruguay).

12. In August 1977 the United Nations Subcommittee on the prevention of discrimination and the protection of minorities discussed the problem of respect of human rights in Argentina in a special chapter on 'serious violations of human rights'.

¹Published in October 1982 as one of a series covering various aspects of repression in Argentina: 'Conscriptos-detenidos-desaparecidos' on the disappearance of young conscripts; 'El secuestro como metodo de detencion' on the use of sequestration as a method of detention; 'Muertós por La Represión'on repression in Argentina.

13. In 1977, two movements were formed to ascertain the fate of those who had disappeared: the 'Madri de la Plaza de Mayo' and the 'Nonne de la Plaza de Mayo'¹; the two associations share the same statutes, principles and headquarters. The aims of the 'Nonne de la Plaza de Mayo' are:

- 1 - to find the missing children,
- 2 - to return them to their legitimate families.

This association has published a report² listing the names of the missing children and outlining the circumstances in which they disappeared. Amnesty International has stated that among the missing persons are dozens of children who disappeared together with their parents or who were born during their captivity in secret detention centres such as the Escuela Mecanica de la Armada in 1977 and 1978. On 14 December 1978, the Argentine police announced that 40 children had been returned to their homes or placed in public institutions. No further details were given. In no case were children born in prison handed over to their grandparents. According to unconfirmed sources, the abducted children have been given a new identity and offered for adoption. Another group of women, known as the 'Nonne de la Plaza de Mayo' went in search of grand-children they had never seen. They knew³ only that their daughters or daughters-in-law were pregnant when they disappeared³.

14. At the invitation of the Argentine Government, the Inter-American Commission on Human Rights of the Organization of American States (OAS) visited Argentina from 6 to 20 December 1979. The Commission has published a lengthy report on the human rights situation in Argentina⁴ in which it examines the various aspects of the human rights problem in Argentina in the context of Argentine politics and rules. One chapter deals at length with the problem of missing persons.

¹ This association was originally called 'Nonne argentine con nipotini scomparsi'

² File Niños 'Desparecidos en la republica Argentina desde 1976. Testimonios sobre niños y bebes desaparecidos'

³ Amnesty International - Sezione Italia. Sparizioni : una violenza che colpisce anche i bambini e che riguarda anche cittadini italiani. Rome, undated.

⁴ Informe sobre la situación de los derechos humanos en Argentina OEA/Ser. L/V/11.49 doc 19, 11 abril 1980. Original Español. Secretaria General Organización de los Estados Americanos, Washington DC 20006

According to the report there are three stages in the disappearances:

- (a) arrest or sequestration by between 6 and 20 people in civilian clothes,
- (b) interrogation in military establishments during which torture and maltreatment take place. At this stage only a very small number of prisoners are held in accordance with the rules, i.e. made accessible to the national executive,
- (c) only a small percentage of those arrested are subsequently liberated.

The report by the Inter-American Commission on Human Rights provides full details of numerous cases of missing persons.

15. On 29 March 1980, General Viola became Head of State.

In the same month, Amnesty International published a list of missing persons¹, naming more than 3,600. According to Amnesty International, the following aspects are common to all the cases reported: neither family nor friends know where the missing person is; there is reason to believe that the government forces are responsible for the disappearances; the government has refused to accept any responsibility whatsoever for the disappearances. Amnesty points out that the list of 3,621 people may be only one third or one fifth of the total figure.

In June 1980 a supplement was published containing another 365 cases of missing people reported to Amnesty International after March 1980. It also includes 38 cases of 'disappearances' prior to the 1976 military coup d'état which are classified as 'pre-coup cases'.

16. In Argentina meantime a whole series of human rights organizations were formed such as the 'Madri de la Plaza de Mayo', 'Nonne de la Plaza de Mayo', 'Asamblea Permanente por los Derechos Humanos', 'Liga Argentina por los Derechos del Hombre', 'Movimiento Ecumenico por los Derechos Humanos', 'Centro de Estudios Legales y Sociales' and 'Servicio Pax y Justicia' which are trying, but to no avail, to get a response from the authorities about the missing persons.

17. In October 1981, the various human rights organizations held a demonstration in Buenos Aires during which they called on the government to prove that the persons 'arrested or missing' were alive. Following this demonstration, the Commander-in-Chief of the Army, General Galtieri, stated that the government had no intention of publishing a list of missing persons since it considered the case to be closed.

¹ The 'Disappeared' of Argentina
List of cases reported to Amnesty International
November 1974 - December 1979

On 22 December 1981, General Galtieri replaced General Viola as Head of State.

18. In the second half of 1982, General Galtieri resigned following the political crisis facing the military junta over the Falkland Islands defeat, and on 1 July 1982 General Bignone officially became the 41st President of Argentina.

Following this crisis, the military government was forced to promise a return to democracy by March 1984 and to authorize most of the political parties to resume their activities. It tried nevertheless, to come to an 'arrangement' with the political parties in an attempt to divert attention from the missing persons enquiry.

On 24 September 1982, the military junta published a statement asserting that all operations initiated against terrorist bands had been carried out in accordance with plans approved by the organic authorities of the armed forces which had made full use of their constitutional powers to monitor them, and that in consequence the military junta had taken all possible legal measures to protect the military, security and police institutions against false declarations.

19. In October and November 1982 various common graves were discovered on the periphery of Buenos Aires and La Plata containing hundred of corpses thought to be those of individuals who disappeared before the military coup d'état in 1976. Following the discovery of dozens of common graves the number of persons who disappeared since 1976 is now nearing 30,000, a figure which is, of course, difficult to confirm or deny. According to the press, 81% of those missing were between 20 and 30 years old, 40% were trade union activists and 41% students or recent graduates. Thirty nuclear physicists and dozens of doctors, psychoanalysts, journalists, student leaders and workers also disappeared.

20. The Argentine Permanent Assembly for Human Rights (Asamblea Permanente per Los Derechos Humanos) has made known the names of 5,566 missing persons. The families of 4,402 of them have provided full details (name, date of birth, identity documents, date and place of sequestration, occupation and a copy of the habeas corpus submitted). Full particulars were not however available for the other 1,164. The Permanent Assembly for Human Rights has, however, pointed out that the list is far from exhausted and that there are in fact far more missing persons¹.

¹ On 13 January 1983, the Committee for the Defence of Human Rights in Latin America published the names of 7,291 missing persons in a report to which Cardinal Arns, Archbishop of San Paolo, write a preface. The report has been distributed by the Ecumenical Council of Churches in Geneva. According to the authors, the number of missing persons should be multiplied by two or three.

21. On 31 October 1982, the Italian daily 'Il Corriere della Sera' published a list of 297 missing persons of Italian nationality, all young people between 17 and 29 years of age at the time of their arrest. The newspaper points out that the list is kept at the Italian Embassy in Buenos Aires but is not available for consultation. According to the newspaper the Italian diplomatic authorities have adopted this attitude because they do not want to jeopardize those who are in the hands of the Argentine authorities.
22. In view of the serious problem posed by the disappearance of 297 Italians in Argentina, the Foreign Affairs Committee of the Italian Camera dei Deputati decided to send a delegation of four members to Buenos Aires. Although the mission did not take the form of an inquiry, the members have announced that a larger delegation will visit Argentina in 1983. One outcome of the mission, which met government and trade union representatives as well as members of previous governments, was the publication in the press of a list of 76 missing Italians, only 8 of whom were included in previous lists, which indicates that there are many more missing Italians, (and obviously other nationalities) than previously thought.

¹On 13 January 1983, the Committee for the Defence of Human Rights in Latin America published the names of 7,291 missing persons in a report to which Cardinal Arns, Archbishop of San Paolo, wrote a preface. The report has been distributed by the Ecumenical Council of Churches in Geneva. According to the authors, the number of missing persons should be multiplied by two or three.

23. On 17 December 1982, a large demonstration was organized by the five main political parties in Argentina (Peronist, Radical, Christian-Democratic, Progressive and 'Intransigenti') to protest against the government's economic policy and call for general elections by June 1983 instead of by the end of the year as promised by the present head of the military junta, General Bignone. The Movement for the Defence of Human Rights joined with the political parties. Incidents occurred during the demonstration and 2 demonstrators were killed by the security forces in front of the Casa Rosada.

The demonstrators called for a just and authentic solution to the problem of missing persons and strongly opposed the amnesty the government wanted to grant to the soldiers responsible for the tortures and killings.

24. The Italian Foreign Minister, Mr Colombo, announced in the Camera dei Deputati on 17 January 1983 that the Italian Government for its part felt that the most natural place from which political initiatives to clarify these events should come was the United Nations. This had already been made clear in the speech by the President of the Council, Mr Spadolini, and by Mr Colombo himself on 5 November 1982 to the Secretary-General of the UN, Perez de Cuellar.
25. The problem of the missing persons was again brought up at the 39th session of the Commission on Human Rights in Geneva. In response to the concern expressed by the Italian Government, the Argentine delegation said that the Buenos Aires government intended to seek a solution to the problem in agreement with the public and the parties as part of the current constitutional democratization process.

At the end of the debate, the Commission on Human Rights unanimously approved a resolution in which it extended the mandate of the working group set up to investigate the cases of missing persons.

26. It is, however, obvious that without the present political crisis facing the Argentine military junta, the tragedy of the missing persons could not have been exposed so dramatically. The discovery of common graves in various cemeteries in the country was the result of the enquiry carried out by the Argentine judges which was prompted by the discovery of the improper burial of numerous bodies. It should be borne in mind that the Argentine judiciary took the action it did in a desire to create a new and more credible image for itself however much the executive authorities continued to impede its activities.
27. The Argentine President, General Bignone, has in the meantime announced that general elections will be held on 30 October and that the new civil government will assume power 90 days later, i.e. on 30 January 1984. On the same day the Argentinians will elect their president, vice-president and representatives of the legislative, national and provincial authorities. General Bignone has also pointed out that Argentina is exactly half way along the road to the restoration of democracy, a process which began 8 months ago with his entry into the Casa Rosada. It is therefore obvious that as democratic conditions are restored the enquiries will continue as far as possible. On the other hand, were the process to be halted, it is practically certain that the magistrature would either suspend, of its own free will, or be forced to suspend the enquiries now under way.
28. A judicial enquiry is taking place in Italy into the disappearance of another 500 Italians. The Ministry of Justice has already authorized the initiation of proceedings against foreign citizens for crimes committed against Italians resident abroad. At the end of a meeting with a delegation of women at the Plaza de Mayo, the Under-Secretary for Foreign Affairs, Mr Costa, announced that children missing in Argentina number 102, half of them Italian.
29. On 18 November 1982 the European Parliament, for its part, adopted a resolution on persons missing in Argentina which met with almost unanimous approval by the various political groups, in which it noted that the tragedy involved Italian, Spanish, French and Swedish as well as Argentine citizens, and condemned the Argentine regime.

It called on the European Council and the Foreign Ministers of the Community to :

- make formal representations and vigorous protests to the Argentine Government to put an end to those practices and provide forthwith detailed information concerning the fate of those who were in prison or who had disappeared, in particular the Community citizens arrested during the past 6 years,
- exert pressure on the Argentinian Government to free all political prisoners and to request the Secretary-General of the United Nations to open an international enquiry.

Lastly, the European Parliament requested that in the European Parliament-Latin American Parliament Delegation, cooperation and coordination measures be studied with a view to immediate joint intervention where human rights were violated.

30. The European Parliament's Political Affairs Committee held a public hearing on human rights on 21 January 1983 during its meeting from 20-22 January 1983. Among those invited to participate in the debate was the former rector of the University of Bahia Blanca (Argentina), now resident in Belgium, who has dealt with the problem of missing persons in Argentina.

He began his speech by stating that the Inter-American Commission on Human Rights defined 'missing person' as 'political prisoner'. The judgement of the Russel Tribunal on the Argentina case was included in the information he gathered: when the missing person procedure is an administrative procedure governed by a law such as the 1979 law (No. 22088) on presumed death, the head of the public authority has a discretionary power of life or death over the missing person.

The Tribunal concluded that enforced disappearances were a crime against humanity.

He also mentioned the 'Madri della Plaza de Mayo' and their activities and pointed out that they had submitted 100,000 requests for habeas corpus but to no avail.

In this connection it is worth noting that it has been asserted that the judicial powers are acting in complicity with the Argentine government. Habeas corpus has not been suspended in Argentina as it has in Chile. When petitions are filed by the relatives of victims they are told that no proof exists of their detention.

He concluded his speech by calling:

- (1) on the Members of the European Parliament to make representations to their governments to comply with the 1949 Geneva Protocol and the 1977 Protocols which oblige countries to look for, identify and locate missing persons,
- (2) on European governments and organizations to support the permanent functioning of the working group set up in 1980 by the United Nations Commission on Human Rights to deal with missing persons,
- (3) on European governments and institutions to endorse an international convention on enforced disappearances,
- (4) for the creation of an immediate emergency legal intervention mechanism in the UN Security Council that could visit countries and regions where there mass disappearances have occurred.

RESOLUTION

on the events in Argentina
adopted by the European Parliament on 18.11.1982¹

RESOLUTION

on the events in Argentina

The European Parliament,

- A. deeply shocked by the revelations made by the international press on the discovery, in Argentina, in at least nine cemeteries, of hundreds of unidentified corpses;
 - B. whereas thousands of persons have gone missing in Argentina, since the military coup in 1976, as a result of the horrific repression meted out by the military in power;
 - C. noting that amongst those missing are citizens of different nationalities and that, as far as Europe is concerned, Italian citizens, citizens of the Federal Republic of Germany, Spanish, French and Swedish citizens have been reported missing;
 - D. whereas events of this kind are still being reported by the 'madri della Plaza de Mayo';
 - E. whereas there have also been reports that children aged between two months and six years old have disappeared, in addition to the disappearance of all those born in prisons;
 - F. whereas the Argentinian Government is opposed to any inquiry that might throw light on those events;
 - G. whereas the action of the diplomatic services of certain Member States of the Community have so far not had satisfactory results,
1. Condemns the Argentine regime for these intolerable violations of human rights and fundamental freedoms,

¹OJ No. C 334, 20.12.1982, pp 78-79

2. Calls on the European Council and the Foreign Ministers meeting in Political Cooperation to
 - (a) make formal representations and vigorous protests to the Argentine Government to put an end to these practices and provide forthwith detailed information concerning the fate of those who are in prison or have disappeared, and in particular the Community citizens arrested during the past six years;
 - (b) exert pressure on the Argentinian Government to free all political prisoners;
 - (c) request the Secretary-General of the United Nations, Perez de Cuellar, to open an international inquiry to throw light on those tragic events as soon as possible;
3. Requests that, in the European Parliament-Latin American Parliament Delegation, cooperation and coordination measures be studied with a view to immediate joint intervention where human rights are violated;
4. Instructs its President to forward this resolution to the Council, the Commission, the Foreign Ministers meeting in Political Cooperation and the Secretary-General of the United Nations.

MOTION FOR A RESOLUTION (Doc. 1-279/81)

tabled by Mrs Christine Scrivener and Mr Francis Combe
pursuant to Rule 47 of the Rules of Procedure
on Community intervention on behalf of the children and babies missing in the Argentine
Republic since 1976

The European Parliament.

- having regard to the moral authority and the humanitarian and democratic tradition of the ten Member States of the European Economic Community,
 - having regard to the appeal by fifty-three Argentine grandmothers who, lacking information of any kind, have for five years been trying in vain to discover the whereabouts of their missing grandchildren,
 - having regard to the fact that the Supreme Court of Justice of the Argentine nation has declared that the protection of children born of mothers in prison does not lie within its competence,
 - having regard to allegations that some children born in Argentine prisons have been handed over to families who are strangers to the children's families, without any notification thereof being given to the latter,
1. Asks that information be made available about what has happened to the children missing in the Argentine Republic since 1976;
 2. Calls for the disclosure of the parentage of children registered beyond the period prescribed by Argentine law or by judgments declaring affiliation delivered since 1976;
 3. Expresses the wish that these children be restored to their families so that their right to preserve their identity and their right to live with their families may be respected;
 4. Instructs its President to forward this motion for a resolution to the Council and the Commission of the European Communities.

MOTION FOR A RESOLUTION (Doc. 1-993/81)
tabled by Mrs Gaiotti de Biase
pursuant to Rule 47 of the Rules of Procedure
concerning missing children in Argentina

The European Parliament,

- recalling its firm commitment to uphold civil rights wherever they may be threatened,
- noting that the offence against humanity is all the more serious when the victims are innocent children,
- considering that the 'Women of the Plaza de Mayo' have submitted a dossier with the names of 73 missing children to the Human Rights Commission of the UN and to its working party on forced and involuntary disappearances,

calls on the President of the European Parliament, the Commission and the Foreign Ministers meeting in political cooperation, to make representations to the Government of the Republic of Argentina so that

- the fate of the children missing during the last five years may be established;
- those responsible for their abduction may be found and punished;
- the true identity of children adopted or committed to institutions during this period may be established, since cases have come to light of missing children being adopted as of unknown parentage;
- these children may be reunited with their families, thereby ensuring respect for their rights, the right to life, the right to uphold their identity and their right to live with their families.

MOTION FOR A RESOLUTION

tabled by Mr Moorhouse, Mr Habsburg, Mrs van den Heuvel and Mr Haagerup

pursuant to Rule 47 of the Rules of Procedure

on the disappearance in Argentina of Jaime Barrera Oro and Richard Chidichimo

The European Parliament,

- A. deeply concerned about the plight and whereabouts of Jaime Barrera Oro (disappeared, Buenos Aires, October 1976) and Richard Chidichimo (disappeared November 1976) and the anguish of their families who do not know whether they are still alive,
 - B. deeply concerned that the fate of these individuals and their families are only two examples of an estimated 15,000 - 30,000 people who have disappeared in Argentina,
 - C. extremely concerned that at least 170 people with EEC passports have disappeared and cannot be traced,
 - D. horrified that barbaric torture of such individuals is routine,
 - E. regarding the secrecy and lack of official Argentinian information surrounding these disappearances as ominous,
1. Urgently request the Foreign Ministers meeting in political co-operation
 - a - to make approaches to the Argentinian authorities, directly or indirectly, to protest most strongly against the continuing state of affairs whereby people are abducted, tortured and 'disappear' with flagrant disregard for fundamental human rights and the rule of Law in Argentina,
 - b - to inquire particularly for information on and release of Jaime Barrera Oro and Richard Chidichimo,
 - c - to demand immediate information on and release of all detained EEC passport holders,
 - d - to actively consider what steps the Community can take to underline its determination to defend human rights in this area,
 - e - to consider a co-ordinated approach to political asylum for Latin American refugees by the Community;
 2. Instructs its President to forward this resolution to the Foreign Ministers meeting in political co-operation, to the Governments of Member States, and to the Argentinian authorities.

MOTION FOR A RESOLUTION (Doc. 1-312/83)

tabled by Mrs Dury

pursuant to Rule 47 of the Rules of Procedure
on the problem of forcible abduction

The European Parliament,

- whereas forcible abduction is a flagrant violation of the letter and the spirit of the United Nations Charter and, in general terms, an unacceptable attack on human rights,
 - having regard to the human consequences both for the victims themselves and for their families,
 - noting also that kidnapping and forcible abduction irrevocably deprive those subjected to them of any opportunity to enjoy the right of defence,
1. Expresses its grave concern at this problem;
 2. Takes the view that kidnapping and forcible abduction should be viewed as crimes against humanity;
 3. Considers that the only effective way of penalizing the use of such methods is to set up an appropriate international court for that purpose;
 4. Believes that the inspiration behind such a court should be the Convention on Forced Disappearances adopted in Lima by the Latin American Federation of Associations of the Families of the Detained-Disappeared (FEDEFAM);
 5. Calls on the Council of Ministers to examine the issue of missing persons and support, at international level, the Convention on Forced Disappearances drawn up by FEDEFAM;
 6. Instructs its President to forward this resolution to the Council of Ministers and the Governments of Member States.

UNITED NATIONS

ECONOMIC
AND
SOCIAL COUNCILDistr.
LIMITED
E/CN.4/1983/L.28
17 February 1983COMMISSION ON HUMAN RIGHTS
Thirty-ninth session
Agenda item 10 (b)QUESTIONS OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO
ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(b) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

France: draft resolutionThe Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, which requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations, and all other United Nations resolutions concerning missing or disappeared persons,

Recalling its resolution 20 (XXXVI) of 29 February 1980, whereby it decided to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons,

Recalling General Assembly resolution 37/180 of 17 December 1982, wherein the Assembly welcomed the decision taken by the Commission on Human Rights in its resolution 1982/24 of 10 March 1982 to extend the mandate of this Working Group for one year,

Recalling resolution 1982/5 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Considering the need to observe United Nations standards and practice regarding the receipt of communications, their transmittal to the governments concerned and their evaluation,

Taking note of the report of the Working Group,

1. Expresses its appreciation to the Working Group on Enforced or Involuntary Disappearances for the work done;

2. Decides to extend for one year the Working Group's mandate, as laid down in Commission on Human Rights resolution 20 (XXXVI) of 29 February 1980, and to retain the present membership of the Working group for the same period of time;

3. Requests the Working Group to submit to the Commission, at its fortieth session, a report on its work, together with its conclusions and recommendations, and to bear in mind the obligation to discharge its mandate with discretion, so as, inter alia, to protect persons providing information, or to limit the dissemination of information provided by Governments;

4. Renews its request to the Secretary-General to appeal to all Governments to co-operate with the Working Group in a spirit of complete confidence;

5. Further requests the Secretary-General to continue to provide the Working Group with all necessary assistance, in particular the staff and resources it requires to perform its functions in an effective and expeditious manner and, if necessary, to make the appropriate arrangements to ensure the continuity of the Secretariat's work;

6. Reminds the Sub-Commission on Prevention of Discrimination and Protection of Minorities of its resolution 1982/24, whereby it requested the Sub-Commission to continue studying the most effective means for eliminating enforced or involuntary disappearances of persons, with a view to making general recommendations to the Commission at its thirty-ninth session, and requests the Sub-Commission to submit such recommendations to the Commission at its fortieth session;

7. Decides to consider this question at its fortieth session under a subitem of the agenda entitled "Question of enforced or involuntary disappearances".

RESOLUTION ON THE REPORT CONCERNING THE
HUMAN RIGHTS SITUATION IN ARGENTINA

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
HAVING REGARD TO:

Its Report of 14 December 1979 concerning the human rights situation in Argentina, the observations of the Argentinian Government on the said Report and other pieces of information available to it,

RESOLVES:

1. To approve this Report, the text of which accompanies this resolution;
2. To forward this Report to the Argentinian Government so that, if it thinks appropriate, it may present the requisite observations to the General Assembly of the Organization of American States;
3. To send this Report through the appropriate channels to the General Assembly under Article 52, indent (f) of the Charter of the Organization of American States; and
4. To publish the said Report.

CDH/2432

CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

1. In the light of the background information and the matters set out in this Report, the Commission has reached the conclusion that, by action or omission of the authorities and their agents, in the period to which this report refers - 1975 to 1979 - numerous serious violations of basic human rights recognized in the American Declaration of the Rights and Duties of Man were committed. In particular, the Commission believes that these violations have concerned:

a) the right to life, in that persons belonging to or connected with Government security agencies have put large numbers of men and women to death after arrest; the Commission is especially concerned at the situation of the thousands of detainees who have disappeared, and who may justly be assumed, for the reasons set out in the Report, to have died;

b) the right to individual freedom, in that large numbers of people have been arrested and placed at the disposal of the Executive indiscriminately and according to no reasonable criterion, and that the detention of such persons has been extended indefinitely, which constitutes actual punishment; this situation has been aggravated by the severe restrictions or limitations placed on the right of option provided for in Article 23 of the Constitution, which distort the true purpose of this right. Also, the prolonged holding of detainees is an infringement of their individual freedom, which constitutes actual punishment;

c) the right of individual security and integrity, owing to the systematic use of torture and other forms of cruel, inhuman and degrading treatment, a practice which has reached alarming proportions;

d) the right to justice and a fair trial, in view of the obstacles encountered by the judiciary in the exercise of its functions, the lack of due guarantees in trials before the military courts, and the manifest ineffectiveness, in practice and in general, of appeals to the right of habeas corpus in Argentina, all of which is being aggravated by the serious difficulties encountered in the performance of their duties by lawyers defending persons detained for reasons of security or public order, some of which lawyers have

died, disappeared or found themselves imprisoned for taking on such defence cases.

2. With regard to other rights laid down in the American Declaration of the Rights and Duties of Man, the Commission points out that even though the lack of respect for them is not as serious as in the case of the above-mentioned rights, the restrictions placed on them also impair the full validity of human rights in the Argentinian Republic. In connection with such rights, the Commission has the following observations:

a) the full exercise of freedom of opinion, expression and information has been hindered in various forms by the issuing of emergency legal orders which have actually helped to create a climate of uncertainty and fear among those responsible for the communications media;

b) workers' rights have been impaired by regulations issued for that purpose and by the application of such regulations, a situation which has had a particularly bad effect on the right of trade union association, owing to military interference and the promulgation of laws which attack working class rights;

c) political rights have been suspended;

d) in general, there are no limitations on freedom of religion and worship, although the Commission was able to confirm that Jehovah's Witnesses are heavily restricted in the performance of their religious activities and that, even though there is no official policy of anti-Semitism, in practice, in certain cases, there has been discrimination against some Jews.

3. In the same way, the Commission believes that organizations working to defend human rights have met and are meeting with unwarranted obstacles to the completion of the work they have been doing.

4. The Commission notes that since its visit to the Argentinian Republic in September 1979 there has been a fall in the number of violations of the rights to life, freedom, individual security and integrity and the right to justice and a fair trial, and that particularly since October of that year it has not recorded any complaints of fresh disappearances.

B. Recommendations

In view of the above conclusions, the Commission has decided to make the

following recommendations to the Argentinian Government:

1. With regard to such deaths as have been ascribed to the authorities and their agents, that it open investigations into them and prosecute and punish, with the full force of the law, those responsible for such deaths.

2. As regards the missing persons, that it carry through the recommendations which the Commission made in this regard, and as a preliminary measure, to the Argentinian Government on 20 September 1979¹, and subsequently report in detail on the fate of these persons.

3. To prevent the occurrence of fresh disappearances, that it set up a central register of detainees with the aid of which their relations and other interested persons can quickly find out who has been arrested; that it order that such arrests be made by properly identified agents, and give instructions for detainees to be transferred without delay to places specifically intended for that purpose.

4. That it consider the possibility of lifting the state of siege, in view of the repeated statements by the Argentinian Government to the effect that the causes which led to it no longer apply.

5. With regard to detainees placed at the disposal of the Executive and to the right of having the option of leaving the country, that the following measures be adopted:

- a) That the power conferred on the Head of State by Article 23 of the Constitution to detain persons under the regulations for a State of Siege be made subject to a criterion of reasonableness and that detention should not be prolonged indefinitely;
- b) That the following persons detained at the disposal of the Executive be released:
 - (i) Those detained without reasonable cause or for a prolonged period;
 - (ii) Those who have been acquitted or have served their terms;
 - (iii) Those eligible for parole;
- c) That the exercise of the right of option to leave the country be restored in full, in such a way that the application procedure does

¹See pages 7,8,9 and 10

not run into delays which nullify the effectiveness of exercising the said right.

6. That a thorough investigation be carried out into complaints of the use of torture and other illegal forms of duress, and that those responsible for such acts be punished with the full force of the law.

7. That all officials and agents of the bodies responsible for public order, state security and the custody of detainees be informed of the rights enjoyed by such persons, particularly as regards the forbidding of any form of cruel, inhuman and degrading treatment, and that they be notified of the sanctions to which they render themselves liable if they violate such rights.

8. That those detained for reasons relating to security and public order be given humane treatment which in no case must be inferior to that applying to common criminals, bearing in mind in both cases the minimum internationally accepted standards for the treatment of persons deprived of their freedom.

9. That it adopt the following measures relating to procedural guarantees and defence in trials:

- a) That persons put on trial before military courts be ensured of guarantees of due legal process, especially the right of defence by a lawyer chosen by the defendant.
- b) That it appoint a commission of qualified lawyers to study the trials carried out by military courts while the State of Siege has been in force and, in cases in which the guarantees inherent in due process have been omitted, make the appropriate recommendations.

10. That it cooperate fully with the judiciary in ensuring the effectiveness of appeals to habeas corpus and for protection.

11. With regard to the right of freedom of opinion, expression and information, that it repeal or, where appropriate, amend those laws, such as 20.840 and others, which restrict the exercise of that right.

12. As far as labour law is concerned, that it take the necessary steps to ensure effective respect for it and, as regards trade union association,

that it guarantee workers' organizations their rights by repealing or, where appropriate, amending such legal provisions as stand in the way of their normal development.

13. With regard to political rights, that it take the necessary steps towards restoring the activity of political parties and their participation in the public life of the nation, as well as guaranteeing the political rights of citizens.

14. As regards the right of freedom of religion and worship, that it repeal Decree No 1867 of 31 August 1976 which prohibits all forms of activity by Jehovah's Witnesses, and investigate and punish any instance of discrimination against Jews.

15. As regards organizations involved in the defence of human rights, that it provide the necessary guarantees and facilities to enable them to contribute to furthering and ensuring respect for human rights in the Argentinian Republic.

