

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1435/Add.1
16 February 1981

Original: ENGLISH/SPANISH

COMMISSION ON HUMAN RIGHTS
Thirty-seventh session
2 February - 13 March 1981
Agenda item 10 (b)

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED
TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:
QUESTION OF MISSING AND DISAPPEARED PERSONS

Report of the Working Group on enforced or involuntary disappearances

Addendum

1. The Working Group on Enforced or Involuntary Disappearances met on 13 February 1981 at the United Nations Office at Geneva during the thirty-seventh session of the Commission on Human Rights to review information received since the Group's third session (8 to 19 December 1980). The Working Group at this meeting was informed that by a letter dated 29 January 1981 its Chairman/Rapporteur Mr. Kwadwo Fake Nyamekye had submitted his resignation since he was taking up a post in the United Nations Secretariat. Since that date by agreement of the Group Viscount Colville has assumed the role of Chairman/Rapporteur.
2. The present document forms an addendum to the Group's report to the Commission on Human Rights (E/CN.4/1435) and describes the most important subsequent developments.

Information and communications received from Governments

(a) Nicaragua

3. By a letter dated 22 December 1980 the National Commissioner for Human Rights and Humanitarian Matters of Nicaragua transmitted the response of the Nicaraguan Minister of the Interior to the information on reported enforced or involuntary disappearances which the Working Group had submitted to the Nicaraguan Government under cover of a letter dated 29 October 1980 (see E/CN.4/1435, para.133). The most pertinent parts of that response are as follows:

"The series of communications from United Nations bodies makes it clear that Nicaragua has shown that it is completely open to the conduct of field investigations with respect both to the cases reported and the general progress of our institutionality, with particular emphasis on the situation of the persons detained in the prisons. Even more important, Nicaragua has fulfilled its engagement to the Inter-American Commission on Human Rights with revolutionary seriousness by stating and reaffirming the Government's intention to keep the doors permanently open, for we have nothing to hide, nothing to be ashamed of, nothing that cannot be revealed to the entire world.

The letter of 23 June 1980, signed by Mr. Kwadwo F. Nyamekye, Chairman of the Working Group on Enforced or Involuntary Disappearances refers to information received by the Group concerning enforced or involuntary disappearances which appear to have occurred in the country ... On that score, when we met with the Inter-American Commission on Human Rights on 10 October 1980, we were absolutely clear, and some would say ingenuously sincere, in acknowledging that there had indeed been some executions during the post-war period. An unascertainable number of persons disappeared, victims of the violence generated by the tremendous Somoza repression during many years of infamy. At that time, the euphoria of triumph went hand-in-hand with anarchy, both being entwined with feelings of rancour and vengeance, the inevitable results of war.

We recognize that many persons disappeared. We should like to explain, however, that quite a few of those persons died in combat in the war itself, some of them even being combatants of the Front, whose families searched for them in vain after the victory. We should also like to repeat our moral and human conviction that it is both legally and materially impossible to get to the bottom of investigations and establish responsibility concerning government control or disciplinary self-control. We firmly believe and emphasize that our young and victorious guerrilla army was incredibly generous to the tyrants it had captured, and that the amount of blood spilled by the triumph of the Sandinist forces was minimal at times so favourable to the outburst of passions.

We also believe that, just as we accept with plain forthrightness these unavoidable events in our past, we must also strongly emphasize the fact that our country has completely overcome the disorder which quite logically prevailed at the outset and has decisively entered the paths of work and progress. We can thus assure the Inter-American Commission on Human Rights that disappearances have ended once and for all in Nicaragua, and that the concern shown by the Working Group in its communication of 19 September 1980 has no point as far as our territory is concerned." 1/

(b) Paraguay

4. By a note verbale dated 20 January 1981 from the Permanent Mission of Paraguay to the United Nations Office at Geneva, the Government of Paraguay made available to the Working Group information relating to reports of enforced or involuntary disappearances in Paraguay.

1/ The response of the Nicaraguan Minister of the Interior also provided information on legislative steps being taken which were referred to as exemplary. Reference was made to draft provisions establishing penalties for the mistreatment of prisoners of war and to the publication of a set of prison régime regulations which considers and evaluates a broad spectrum of alternatives conducive to the application of the most modern concepts in penal matters, leading to the prisoner's re-adaptation to and rehabilitation in society. The full text of this response is in the files of the Secretariat available for consultation by members of the Commission.

(c) Uruguay

5. The Permanent Mission of Uruguay to the United Nations Office at Geneva by notes verbales dated 18 and 29 December 1980 transmitted to the Group information regarding seven persons. The Government of Uruguay reported that arrest warrants had been issued for five of the persons concerned because of their connection with certain organizations or with subversive activities. With regard to one person, the Government reported having no information and with regard to the seventh person, who reportedly disappeared in May 1980, the Government reported that he was being held for trial because of subversive activities.

Urgent reports of enforced or involuntary disappearances

6. The Working Group's report (E/CN.4/1435) in paragraphs 10 and 30 deals with the authorization which the Group gave to its Chairman to transmit urgent reports of enforced or involuntary disappearances, received between sessions of the Group and requiring immediate action, to the Government of the country concerned together with a request that the Government transmit to the Group such information as it might wish. Paragraph 43 of the report contains a short review of the action carried out in that regard. In the period since its third session, the Group's Chairman has transmitted urgent reports of enforced or involuntary disappearances to the Governments of five countries. In two instances the Group was informed by the Government concerned that the person reported missing was in official custody and in good health. In one instance the Government informed the Group that a full investigation was being carried out into the reported disappearance. The Group wishes to express its thanks to the Governments which have responded to its requests for information. With regard to two urgent reports of disappearances, one in El Salvador and one in Chile, the Working Group received no reply from the Government concerned, although, after the Chairman's cable had been sent, newspaper reports indicated that the person reported to have disappeared in Chile had been presented to a Chilean court by Chilean security agents and charged with subversive activities. This person was presented to the court 20 days after the date of his reported disappearance. No official confirmation of this court appearance has been received.

7. On 13 February 1981 the present addendum to the report of the Working Group on Enforced or Involuntary Disappearances was adopted and signed by the members of the Working Group.

Viscount Colville of Culross (United Kingdom)
Chairman/Rapporteur

Waleed H. Sadi (Jordan)

Ivan Tosevski (Yugoslavia)

Luis A. Varela Quiros (Costa Rica)