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HUMAN RIGHTS

5/11/80

Briefing Paper for
Amb. Gerard Smith

A1076

U. S. Concerns:

Human rights violations in Argentina have been a matter of deep concern to us, and we have made it clear to the Argentine Government that any improvement in our bilateral relations will depend importantly on substantial improvement in observance of human rights. Ambassador Castro has energetically conveyed our concerns to the highest levels of the Argentine Government, and General Goodpaster stressed our continuing strong commitment to human rights progress during his recent mission to Argentina. Nevertheless, some Argentine officials as well as certain Argentine press circles have attempted to portray General Goodpaster's mission as indicating de-emphasis of our pursuit of human rights goals for the sake of obtaining Argentine cooperation on restricting grain sales to the USSR and of generally improving bilateral relations in the post-Afghanistan era. Such talk has occasioned fears among human rights groups in Argentina and the United States that we may indeed be turning away from strong advocacy of human rights objectives. We have assured them that this is not the case.

The Human Rights Situation and the International Response:

The situation remains serious, although the scale of abuses has gradually declined since the 1976-78 period, as indicated in our human rights report to Congress. (Copy attached.) For example, our records contain 44 cases of disappearances for 1979 as compared with over 500 for 1978 and many more in earlier years. We are aware of no disappearances thus far in 1980. Beginning in February, 1979, high Argentine officials gave us private assurances that the practice of disappearance would cease. These assurances have been renewed several times, occasionally with the caveat that known terrorists would continue to be dealt with summarily.

The Argentine Government has thus far taken no meaningful action to provide to families or other interested parties an accounting for the many thousands of persons who have disappeared during the past four years. International pressure for such an accounting has increased considerably during the past six months, leading to appeals by the Pope, the European Parliament, and the Organization of American States. Concern is also mounting in the U. S. Congress: The House recently passed, by 343-3, a resolution introduced by Rep. Don Bonker and 22 co-sponsors condemning the practice of officially-sanctioned disappearances throughout the world.

ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPs

Margaret P. Grafeld, Director

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Most recently, the U. N. Human Rights Commission (UNHRC) decided to establish a five-member working group of independent experts to deal publicly with the question of missing and disappeared persons on a global basis. The Argentine Delegation at the UNHRC session vigorously opposed the establishment of the new working group, despite earlier assurances to Ambassador Castro and to General Goodpaster that Argentina would not try to block a global resolution. After intensive and protracted negotiations produced a compromise text somewhat weaker than that proposed by the U. S. and other Western countries, Argentina acquiesced in the adoption of the final resolution by consensus. Argentina also attempted to delay progress on the drafting of a Torture Convention, and in an effort to get Soviet bloc support, opposed a U. S.-supported effort to have the UNHRC send a telegram of protest to the Soviet Union in the case of Andrei Sakharov.

The UNHRC also decided, under its confidential Resolution 1503 procedures, to keep the Argentine situation under review and to request the GOA to respond to a series of questions on specific human rights issues. While the U. S. would have preferred a stronger outcome, the fact that Argentina was being considered for the first time apparently persuaded a majority to adopt the method chosen. They may also have been influenced by the likelihood that Argentina will receive priority attention from the working group on disappearances. The Argentines are probably pleased that the Commission did not opt for a request that the Secretary-General establish direct contacts with the GOA on human rights or for the appointment of a Special Rapporteur to make a thorough study of the Argentine situation, although they objected to the part of the decision requiring responses to specific questions.

Other key areas of human rights concern include:

-- The approximately 1,300 persons being held under executive detention ("PEN"), many of whom have been held for three or four years. Most have never been charged with any offense. During the past year, the GOA removed about 2,100 people from "PEN" status; some were freed, others were tried or expelled, and others permitted to leave the country under a "right of option" procedure. GOA officials have said privately, however, that the GOA does not plan substantial further reductions in the number of executive detainees. They say that, although there is insufficient evidence to bring these individuals to trial, the security forces regard them as dangerous.

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-- Problems in the "right of option" program. When the Argentine authorities in 1978 reactivated a Constitutional provision permitting executive detainees to choose self-exile, the U. S. responded by establishing a special parole program to accept qualified applicants. U. S. regulations require that a consular officer personally interview each applicant. The authorities have denied almost two-thirds of our requests for interviews, and have subsequently refused a large number of option requests submitted by detainees to whom we have issued certificates of eligibility. Moreover, the entire program has been beset by excessive procedural delays on the Argentine side.

-- The persistence of torture during the interrogation of new detainees. There were credible allegations that the practice continued in 1979, and we are aware of no measures taken by the authorities to halt the practice.

-- Various limitations on freedom of expression, association, and assembly, as set forth in the Department's human rights report.

-- The lack of progress toward redemocratization: In late December, the Junta promulgated a "political plan" containing broad guidelines and a commitment for an eventual return to civilian government. The plan includes no timetables for approaching this goal but calls for the initiation of a vaguely-defined political dialogue in 1980. The plan's vagueness has elicited criticism from some Argentine political leaders and has led most oppositionists to adopt a skeptical, wait-and-see attitude.

The Inter-American Human Rights Commission

With the UNHRC session behind, the GOA's human rights concerns now focus on the report of the OAS Inter-American Human Rights Commission (IAHRC). The IAHRC conducted an onsite investigation of human rights conditions in Argentina last September, and subsequently submitted its draft report to the GOA. Argentine officials have expressed consternation at the report's findings, which they say are far more critical, even condemnatory, than they had expected. The GOA submitted written comments on the draft to the IAHRC in late February. The Commission will consider these comments at its March 27 - April 12 session, when it will approve a final version of the report.

Some Argentine officials believe that the U. S. influenced the preparation of the Commission's draft report, and they urged us to try to soften it. We have made clear

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to the Argentines that we played no role in drafting the report, that we have not seen the draft, and that we respect the integrity and independence of the Commission and will not interfere in any way with its procedures. (The IAHRRC, unlike the U. N. Human Rights Commission, is a body of independent experts who do not represent governments.)

The GOA took the unusual step of encouraging the Argentine press to publish the text of the Department's human rights report. Argentine officials as well as human rights leaders praised our report as an honest, objective, balanced account. Given the GOA's reaction to the draft IAHRRC report, the decision to encourage publication of the U. S. assessment was probably intended to lessen the expected negative public impact of the former.

POINTS TO MAKE

-- We have taken note of the Argentine Government's assurances that steps have been taken to curb the practice of disappearances. We welcome this development. We also note that there appears to have been no new confirmed cases of disappearances during the past few months. We hope that this situation will continue, as it represents an important step toward restoring the rule of law.

-- The Argentine Government gave assurances to our Embassy and to General Goodpaster earlier this year that Argentina would not oppose the establishment by the U. N. Human Rights Commission of an effective universal procedure to deal with the question of disappeared persons. Despite these assurances, the Argentine Delegation at Geneva lobbied vigorously against the establishment of a public procedure. In the end, Argentina joined the consensus in favor of creating the five-member working group of experts to deal with the matter. We consider it very important that all countries cooperate fully with the working group and assist it in carrying out its responsibilities.

-- The problem of accounting for persons who disappeared in Argentina continues to be a matter of important concern to us. We have noted your Government's earlier statements alluding to difficulties in resolving this problem. We, nevertheless, reaffirm our concern and urge the Argentine Government to devise a plan to provide to families whatever information may be available or obtainable. The new Working Group of the U. N. Human Rights Commission may be able to assist you in this task.

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-- We also urge you to accelerate the review of the cases of persons remaining in detention under the National Executive Power, with a view toward their early trial, release, or exercise of the right of option.

-- We remain disturbed by the continuing delays in carrying out the right of option program, by the very large and increasing number of refusals of permission to visit applicants in prison, as well as the large number of eventual denials of the right of option to persons holding U. S. certificates of eligibility.

-- We remain seriously concerned by reports that torture and other forms of mistreatment are still practiced during the interrogation of new detainees. We urge that you adopt effective measures to end the practice.

-- We have also taken note of the announcement in late December of a plan to begin a political dialogue this year with a view toward the ultimate restoration of popular government. We urge that this process be initiated quickly and conducted openly and with the broadest possible participation of civic sectors.

-- We would also urge your Government to respond fully and promptly to the series of questions posed by the U. N. Human Rights Commission in the resolution adopted under its confidential procedures earlier this month with regard to the situation in Argentina.

-- We regard the Argentine Government's decision to publish the text of the State Department's human rights report as a positive step toward improving better understanding of the matter.

-- (If raised by the Argentines): the U. S. has not seen the draft report prepared by the Inter-American Human Rights Commission in Argentina. We fully respect the integrity and independence of the Commission; we have not and will not attempt to intervene in the Commission's deliberations and decisions in this matter.

Attachments:

1. Text of U. N. Human Rights Commission resolution on disappearances.
2. Human Rights report on Argentina for 1979.

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