

**AVRUPA KONSEYİ 34. PARLAMENTER
ASSAMBLESİ NEDENİYLE YAPILAN
BASIN TOPLANTISI AÇIKLAMASI**

Avrupa Konseyi Sarayı, Strasbourg, 26 Eylül 1983.

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Feridun Aksın Gazeteci **Paris**
Turhan Ata DISK Yönetim Kurulu üyesi **Ştutgard**
Ekrem Aydın DISK Yönetim Kurulu üyesi **Stokholm**
Cüneyt Başbuğu Türkiye Barış Komitesi Genel Sekreter Yardımcısı **Paris**
Cahit Baylav Bank — Sen Ankara Merkez temsilcisi **Londra**
Nafiz Bostancı Genel — İş Marmara bölge temsilcisi **Londra**
Mehmet Boz JGD Merkez Yönetim Kurulu üyesi **Basel**
Enis Coşkun Türkiye Barış Komitesi Genel Sekreteri **Paris**
Sıtkı Coşkun Bank — Sen Genel Başkan yardımcısı **Kopenhag**
Yücel Çubukçu Bank-Sen Genel Sekreteri **Amsterdam**
Kemal Daysal DISK Yürütme Kurulu üyesi **Paris**
Metin Denizmen Bank-Sen Genel Başkanı **Rotterdam**
Bahtiyar Erkul Maden-İş Sendikası Genel Başkan vekili **Frankfurt**
Ahmet Erol İş Müfettişleri Derneği Genel Başkanı **Stokholm**
İlhan Geçit Bank-Sen Yürütme Kurulu üyesi **Amsterdam**
Halûk Tan Ipekçi IGD Merkez Yönetim Kurulu üyesi **Kopenhag**
Mehmet Karaca Maden-İş Sendikası Genel Başkanı ve DISK Yönetim Kurulu üyesi **Paris**
Cemal Kırıl Maden-İş Sendikası Ege merkez temsilcisi **Atina**
Cevdet Kocaman Köy-Köop 2. Başkanı **Kopenhag**
Alâattin Kılıç Bank-Sen Genel Başkan yardımcısı **Kopenhag**
Zülâl Kılıç IKD Genel Sekreteri **Kopenhag**
Mahmut Mengülioğlu IGD Merkez Yönetim Kurulu üyesi **Paris**
Eşref Okumuş Petkim-İş Sendikası Yürütme Kurulu üyesi **Rotterdam**
Beria Onger IKD Genel Başkanı **Kopenhag**
Recep Orduseven Bank-Sen Yürütme Kurulu üyesi **Rotterdam**
Akat Sağiner Bank-Sen Yürütme Kurulu üyesi **Stokholm**
Ahmet Muhtar Sökücü IGD Genel Başkanı **Paris**
Alâattin Taş IGD Genel Sekreteri **Atina**
Murat Tokmak DISK Yönetim Kurulu üyesi **Hamburg**
Enver Türkoğlu Bank-Sen Yürütme Kurulu üyesi **Stokholm**
Süleyman Üstün Maden-İş Sendikası Eğitim Dairesi müdürü **Batı Berlin**
Abdullah Yılmaz Maden-İş Sendikası Ankara bölge temsilcisi **Londra**

TÜRKİYE SOSYAL TARİH ARAŞTIRMA VAKFI
TÜSTAV

Sayın basın mensupları, Bayanlar, Baylar,

Türkiye'de 6 Kasım günü bir genel seçim yapılacaktır. İşbaşındaki askersel yönetim böylece demokratik bir rejime dönülmekte olduğunu söylemektedir.

Biz, 12 Eylül 1980 askersel devirmesi sonunda yurtdışına çıkan ve çeşitli Avrupa ülkelerinde politik göçmen olan Türkiye demokratik yığın ve sendikal örgüt yöneticileri olarak gerçeğin, cuntanın söylediği gibi şüpheli olmadığı konusunda sizleri somut verilerle bilgilendirmek için bu basın konferansına katılmaktayız.

Ekte sunduğumuz ayrıntılı dökümanda da anlatıldığı üzere 3 yıl önce ülkede terörü önlemek gerekçesiyle erke el koyan askeri yönetim terörü devlet terörü haline dönüştürmüştür. Çeşitli sıkıyönetim komutanlıklarının açıklamalarına göre 12 Eylül 1980 ile 30 Nisan 1983 tarihleri arasında;

- 1) Mahkemelerden çıkan karar sayısı 32671,
- 2) Politik tutuklular ve hükümlüler sayısı 22.171,
- 3) Ömür boyu hapis cezası ise 148,
- 4) Verilen idam cezası sayısı 126'dır. (Bunların 23'ü infaz edildi.)

Ülkemizin en büyük iki sendikal örgütünden biri olan DİSK'in 74 yöneticisi idam cezası istemiyle yargılanmaktadırlar. Barışsever halkımızın, kendi alanlarında en seçkin kişilerini bünyesinde toplayan Türkiye Barış Komitesi hakkında açılan dava önümüzdeki günlerde sonuçlanacaktır. Salt barış ve silahsızlanma için uğraş verdikleri için bu seçkin kişiler onlarca yıllık ağır hapis cezası tehdidi altında bulunuyorlar.

Türk ve Kürt halklarının çeşitli politik parti ve hareketleri ve demokratik yığın örgütleri hakkında açılan davalar sürmektedir. Bu davalar da istenen idam cezaları toplam 5000'i aşmıştır.

İşkenceler, işkencelerde ölümler, sokaklarda polis kurşunu ile öldürmeler sürmektedir.

Üniversitelerden öğretim üyeleri görevlerinden alınmaktadır. Ülkedeki tüm demokratik, yurtsever ve ilerici kamuoyu üzerinde en ağır baskılar, terörler uygulanmaktadır.

Bütün bunları yaparken cunta, ülkemizi gün günden daha çok Reagan yönetimine bağımlı kılmaktadır. Onun, bölgemize yönelik serüvenci ve tehlikeli savaş planlarında yer almaktadır. İç ve dış politikada izlenen bu çizgi, rejimi giderek gericileştirmiş ve bugün onu niteliksel bir değişmeye uğratarak ülkeye faşist bir rejimi getirmiştir.

7 Kasım 1982 tarihinde halkımızın önüne süngülerin ucuyla konulan ve kabul ettirilen Anayasa'dan sonra artan bir hız ve kapsamla cunta var olan rejimi kalıcılaştıracak bir dizi yasalar ilan etmiştir. Bu yasalar arasında yer alan sendikalar, toplu sözleşme ve grev hakkı yasası, işçi sınıfının bu haklarının özünü boşaltan ağır yasaklamalar içermektedir. D.G.M. yasası ile bugünkü savaş hali usulü hükümleri uygulayan sıkıyönetim mahkemeleri ileriye yönelik olarak kalıcılaştırılıyor.

Siyasi partiler yasasında öngörülen düzenlemelerle bir yandan halkın özgürce siyasi parti kurma ve üye olma hakkı elinden alınmakta, öte yandan kurulacak partilerin cuntaya ve onun eylem ve işkencelerini destekleyen göstermelik partiler olmasının yolları yaratılmaktadır. Nitekim böyle de olmuş; cunta elinde tuttuğu veto yetkisini en geniş biçimde uygulayarak kurulan 14 siyasi partiden yüzlerce kurucu üyeyi veto etmiştir. Büyük Türkiye Partisi'ni doğrudan kapatmıştır.

Hazırlanan seçim yasası ile de genel, demokratik ve gerçek seçimlerin yolunu kapattı. Cuntanın koyduğu tüm barajları aşabilen SODEP ve Doğru Yol partilerinin seçime katılmalarını engelledi. Toplam 627 milletvekili adayını veto etti. 475 Bağımsız adaydan 428'ini seçim dışına attı. Böylece yapılacağı söylenen seçimlere cuntanın denetim ve yönlendirmesindeki üç parti katılacaktır. Cunta böylece kendi dışındaki partiler ve kişileri tasviye ederek seçime gitmektedir. Üstelik bugün seçime katılmaları önlenen partiler önümüzdeki 5 yıl içinde yapılacak yerel seçimlere katılma olanağına da sahip olamayacaklardır. Çünkü cunta, onlara bunu da yasaklamıştır.

Sayın bayanlar, baylar,

Demokrasiye dönmekte olduğunu iddia eden cunta işte böylesi bir oluşum ortamında 6 Kasım seçimlerini yapma hazırlığı içindedir.

Böylece 6 Kasım'da seçimler yapılsa bile Türkiye'de demokrasiye dönmüş olmayacaktır. Bu seçimlerin göstermelik bir seçim olacağı bellidir.

Türkiye'de cunta yolunu belirlemiş ve kararlı biçimde bu yolda yürümektedir. Ama onun Türkiye'yi sürüklemekte olduğu bu yol, Avrupa halklarının üzerinde bulunduğu yolla gelişmektedir, ona ters düşmektedir. Avrupa topluluğunun kökleşmiş ilkelerini çiğneyerek yürüyen cunta yönetimi halkımız için olduğu kadar, topluluk içinde kabul edilemez, desteklenemez tehlikeli bir konumdadır.

E yönetimin Avrupa topluluğu içinde yeri kalmamıştır.

İşte bizler, halkımıza ve insanlığa düşman bu yönetim karşısında açık tavrı alınmasının zorunluluğu saptamasıyla Avrupa kamuoyuna sesleniyoruz. Henüz vakit varken, bu rejimin kökleşmesini önlemek, halkımızın özgür gerçek bir demokrasiye kavuşması için, Avrupa kamuoyu duyarlı ve sorumlu biçimde tavrı almalıdır.

Avrupa kamuoyuna seslenme olanağı sağlayacak bu toplantıyı düzenleyenlere ve toplantıya katılan siz basın mensuplarına ve konuklara nezaketleri ve ilgileri için teşekkür ederiz.

I- Askersel referandum'dan Resmi seimlere...

12 Eylöl 1980'de erki eline alan Milli Güvenlik Konseyi, Anayasa'ya aykırılıkları hiç bir zaman için öne sürölemeyecek, üzerinde tartışma dahi yapılamayacak nitelikte kanun, bildiri, karar, yönetmelik vb. adlarla yayımlanan bir dizi hukuksal düzenlemeleri gerçekleştirdi. "12 Eylöl Hukuku" diye adlandırılabilir bu düzenlemelerle Devletin yapısı yeniden biçimlendirildi. Bugünkü rejimi kalıcılaştıracı bu düzenlemeler, özellikle 7 Kasım 1982 günü yapılan "askersel referandum" dan sonra yeni boyutlar kazandı. Yanısıra niteliksel deęişim ve oluşumlara koşut sosyal politik yaşamda bir dizi gelişmelere tanık olundu. Şimdi ise askeri yönetim 6 Kasım 1983 günü yapacağı seimlerle demokrasiye dönmekte olduğunu söylemektedir.

Özgün nitelendirme, yaklaşım ve anlayış farklılıkları olsa da Türkiye'de demokratik bir yönetimin işlerlik kazanmasını isteyen herkesin gündemine bu vesile ile Türkiye sorunu yeniden gelmiş bulunmaktadır.

Bu nedenle tam da 6 Kasım seimleri öncesinde belli başlı örneklemelerle toplumsal yaşamın yasama, yargılama ve yürütme alanlarında ki somut gelişmeleri bir kez daha değerlendirmek yararlı olacaktır. Böylesi bir değerlendirme, söylenenler ile yaşam arasındaki bağlantının ne ölçüde çakışmakta olduğunu gösterecek bir işaret olacaktır.

II- 12 Eylöl Anayasası sonrasında çıkarılan başlıca yasalar:

A- SENDİKALAR YASASI:

Anayasaya konulmuş anti-demokratik düzenleme doğrultusunda çıkarılan sendikalar yasası Türkiye'de sendikal hakları onlarca yıl geriye götürerek ağır biçimde kısıtlamıştır.

Sendikaların kuruluşlarına ilişkin sınırlamaların ötesinde, üye olma hakkını da çok daraltmıştır. Daha önce sendikal hakka sahip 500.000 işçi yeni yasa ile bu haktan yoksun kılınmıştır. Üye olmadaki sınırlamada o derece aşırıya gidilmiştir ki, işçilerin öğrenim görme hakları bile ellerinden alınmıştır. Çünkü yasaya göre öğrenim yapmak isteyen, yani öğrenci olacak bir işçi sendika üyesi olamayacaktır. Üye olmanın yanı sıra, üyelikten serbestçe ayrılma hakkı da ağır sınırlamalara uğratılmıştır. Bir işçinin üyelikten ayrılma iradesinin yaşama geçebilmesi, bu iradesinin açıklanmasını izleyen üç ay sonra geçerli olabilecektir. Böylece bir işçi üye olmak istemediği bir sendikada yasa zoru ile üç ay daha üye olmak zorunda bırakılmaktadır. Bu hükmün en önemli yansıması, iş yerinde yetkili sendikanın saptanması prosedüründe kendisini gösterecektir. Sendika kurma ve yönetim organlarında görev alma hakkı,

o iş kolunda 10 yıllık işçilik kıdemi zorunluğu getirilerek genç işçilerin elinden alınmıştır.

Sendikaların üzerinde idari ve mali devlet denetimi getirilmiştir.

Uluslararası sendikal kuruluşlara üye olma hakkı işçiler için tamamen yasaklanmış, konfederasyonlar için ise hükümet izni zorunluğu getirilmiştir. Sendika yöneticilerinden herhangi birinin politik nitelikli bir suçtan mahkumiyeti halinde sendikanın kapatılması öngörülmüştür.

12 Eylül öncesinde yürürlükteki sendikalar yasasında zamanın anayasasına-ki bugünkü askeri yönetimin getirdiği anayasadan çok ileri ve demokratik bir nitelik taşımaktaydı- aykırı görülerek Anayasa Mahkemesi tarafından iptal edilmiş ne kadar demokratik sendikal haklara aykırı düzenlemeler var ise askeri yönetim tarafından yeni sendikalar yasasında yeniden düzenlenmiştir. Hatta daha da öteye gidilmiştir. Örneğin, işçi önderleri seçimlerde aday oldukları zaman sendikalardaki görevlerinden uzaklaşmak zorundadırlar. Seçimlerde işçi haklarından yana programı olan bir siyasi parti ya da adayın propagandasını yapamayacakları gibi onu desteklediklerini bile açıklayamayacaklardır. Böylece sendikaların politik tavır alma olanakları yasaklanmıştır. Sendikaların üyelerine borç para vermelerine dek, akla gelebilecek ya da gelebilecek pek çok yasaklama ve sınırlamalarla, Türkiye'de sendikal haklar prangalanmıştır.

B- TOPLU İŞ SÖZLEŞMESİ VE GREV YASASI:

7 Mayıs 1983 günü yürürlüğe giren yeni toplu iş sözleşmesi yasası da askersel yönetimin anayasasındaki anti-demokratik düzenlemelerin doğrultusunda, onları daha da ayrıntılı biçimde düzenleyerek pekiştiren bir niteliktedir.

Özellikle 12 Eylül öncesinde Anayasa Mahkemesince eski toplu iş sözleşmesinin anayasaya aykırı bulunduğu ve iptal ettiği kimi düzenlemeleri yeniden getiren, yanı sıra da işverenlerin öteden beri isteye geldikleri düzenlemeleri gerçekleştiren hükümleri içermektedir. Toplu iş sözleşmesinin kapsamını daraltan, yasada düzenlenen hakların üstünde işçi lehine hak sağlanmasını engelleyen, işçiler düzeyinde toplu iş sözleşmesini kaldıran bu yasa toplu iş sözleşmesinin yapılabilmesi koşullarını da olağanüstü güçleştirmiştir. Yasanın toplu iş sözleşmesi yapabilme yetkisini düzenleyen 12. maddesine göre; bir sendikanın toplu iş sözleşmesi yapabilmesi için öncelikle kurulu bulunduğu işkolunda çalışan işçilerin yüzde onunu üye yapmış olmasının yanı sıra toplu iş sözleşmesi yapmak istediği işyerindeki işçilerin de % 50'sinden 1 fazlasını temsil etmesi zorunludur.

Yasa grev konusunda Anayasadaki kısıtlayıcı düzenlemeyi yinelemektedir. Daha sonra getirdiği düzenlemeler ile de bir yandan grev yapılamayacak işler ve işyerlerini genişletmiş, öte yandan ise grevin yapılabilme koşullarını alabildiğine zorlaştırmıştır.

- kamu kuruluşlarınca yürütülen, itfaiye, temizlik işleri,
 - şehir içi deniz, kara, demiryolu ve diğer raylı toplu yolcu ulaştırma işleri,
 - banka ve noterlik hizmetleri,
 - su, elektrik, havagazı, doğal gaz, petrol sondajı, üretimi, tasfiye ve dağıtımı,
 - eğitim ve öğretim kurumlarında ve sağlık işyerlerinde,
 - Milli Savunma Bakanlığı ile Jandarma Genel Komutanlığı ve Sahil Güvenlik Komutanlığınca doğrudan işletilen işlenlerinde,
- grev tamamıyla yasaklanmıştır. Ayrıca olağanüstü hal ilanında ve seferberlik durumunda ise grev hakkı tüm işkolları için kaldırılabilir.

Böylece de fiilen grev hakkı uygulanma ve hele sonuç alıcı bir etkinlikten yoksun soyut bir hak niteliğine döndürülmüştür. Genel grev, dayanışma grevi ve sempati grevi tümüyle yasaklanarak suç sayılmıştır.

C-DEVLET GÜVENLİK MAHKEMELERİ YASASI:

12 Eylül öncesinde Anayasa Mahkemesi tarafından iptal edilmiş ve Türkiye demokratik kamuoyunun tepkisini ve eleştirilerini yoğun biçimde toplamış olan Devlet Güvenlik Mahkemeleri bilindiği gibi askeri yönetimin anayasa-sında öngörülmüş bulunmaktaydı. Anayasa'nın 7 Kasım 1982 günlü askeri referandum ile kabulünden sonra çıkartılan bir dizi yasa arasında, bu mahkemelerin kuruluş, görev ve işleyişini düzenleyen yasa da bulunmaktadır.

DGM yasasına göre bu mahkemeler;

- a) İdeolojik nitelikte sayılan düşünce suçları,
 - b) Anayasa'nın 120. maddesi gereğince olağanüstü hal ilan edilen bölgelerde, olağanüstü hal ilanına neden olan olaylara ilişkin suçları,
 - c) Devletin ülkesi ve milleti ile bölünmez bütünlüğü, hür demokratik düzen ve nitelikleri anayasa'da belirtilen cumhuriyet aleyhine işlenen, doğrudan devletin iç ve dış güvenliği aleyhine işlenen suçları diye tanımlanan suçları,
 - d) Toplantı ve gösteri yürüyüşü, toplu iş sözleşmesi ve grev yasası, dernekler ve telsiz yasasında yazılı suçları,
- yargılamakla görevli olacaklardır.

Görüldüğü gibi bu mahkemelerin görev alanı çok geniş tutulmuş bulunmakta ve bu haliyle yargı birliği ve bütünlüğü ilkesini çiğnemektedir.

Yasa, 14. maddesinde anayasanın 17. maddesinin son paragrafındaki düzenlemeye koşut olarak güvenlik kuvvetlerine " zor kullanmak " adı altında yasal öldürme hakkı tanımaktadır. Gene aynı madda kolluk kuvvetlerine; soruşturma ve kovuşturma sebebiyle, sanığı, tanığı, bilirkişiyi ve suçtan zarar gören şahsı, DGM yetkililerinin emriyle zor kullanma yetkisiyle belirtilen gün ve saatte ve yerde hazır bulundurma görevi vermektedir. Böylece bir soruşturmanın sanığından, tanığına, bilirkişisinden suçtan zarar görenine dek tüm ilgililerini zor kullanmanın kapsamı içine almaktadır. Gene bu yasa savunma hakkını tümüyle yok edecek kısıtlamaları içeren usul hükümlerini taşımaktadır. Bu haliyle bugün sıkıyönetim mahkemelerindeki savaş hali usulü hükümleri olağan dönemde DGM'deki yargılamalar açısından kalıplaştırılıp süregenleştirilmektedir. Böylece DGM'ler geleceğin sivil ve olağanüstü mahkemeleri olarak öngörülmüş bulunmaktadır. Bu mahkemeler, askersel yönetim dönemini geçirmekte olduğu söylenen demokratik dönemde sürdürecektir kurumlar olacaktır.

D-SÜRGÜN YASASI:

Cunta anayasasının 23. maddesinde " yerleşme hürriyeti, suç işlenmesini önlemek, sosyal ve ekonomik gelişmeyi sağlamak, sağlıklı ve düzenli kentleşmeyi gerçekleştirmek ve kamu mallarını korumak amacıyla kanunla sınırlandırılabilir" hükmü yer almaktadır.

Madde de belirtilen nedenlerle yerleşme özgürlüğünün sınırlandırılması, aslında bu özgürlüğün tümüyle yok edilmesi demektir.

Nitekim, siyasi gelişmeyi önlemek amacıyla yeni kurulan siyasi partilerden Büyük Türkiye Partisi (BTP) 31.5.1983 tarihinde kapatılmış, bazı yöneticileri ile birlikte aralarında Süleyman Demirel'in de bulunduğu 16 eski CHP ve AP Milletvekili Çanakkale'de " zorunlu ikamete" gönderilmişlerdir.

Bu uygulamadan üç gün sonra da " Şüpheli ya da Kamu düzeni bakımından zararlı faaliyette bulunanların 5 yılı geçmemek üzere Sıkıyönetim bölgesinden çıkartılabileceklerine " ilişkin yasa kabul edilmiş ve 4.6.1983 günlü Resmi Gazetede yayınlanarak yürürlüğe girmiştir.

Yasada, 5 yılı geçmemek üzere sıkıyönetim bölgesi dışında İçişleri Bakanlığınca belirlenecek yerlerde ZORUNLU İKAMETE TABİ TUTULACAK kişiler şu şekilde sıralanmaktadır.

-Kamu düzeni, devlet kuvvetleri, kişi hürriyeti, kamu selameti aleyhine

- işlenen cürümlerle adam öldürmek ya da kişilere karşı müessir fiil de bulunmak suçlarından hükümlü bulunanlar,
-Genel emniyet gözetimi altında olanlar,
-Sıkıyönetim bölgesinde belirli bir ikameti olmayanlar,
-Şüpheli ya da genel güvenlik ve kamu düzeni bakımından zararlı faaliyette bulundukları anlaşılanlar,

Maddeye göre kişilerin suçlu olup olmamasının herhangi bir önemi yoktur. Kuşku veya zararlı olmasının anlaşılması yeterli bir nedendir. Zorunlu ikamete tabi tutulanların herhangi bir itiraz hakları da söz konusu değildir. Ve bu uygulama işçi, memur, öğretim üyeleri, eski politikacı, eski parti, kısaca cuntanın zararlı gördüğü tüm kişiler hakkında uygulanmaktadır. Örneğin Ankara Üniversitesi Fen Fakültesi eski dekanı Edirne'de zorunlu ikamete tabi tutulmuştur.

İnsanların yerleşme özgürlüğünün dağı olmadığı bir ülkede, özgürce oy kullanmadan ve özgün bir seçimden söz etmek olanaksızdır.

E-SİYASİ PARTİLER YASASI:

Öncelikle yasa, parti kurma hakkının özünü sınırlamaktadır. Yasaya göre sosyal demokrat, sosyalist, komünist ve başka her türlü sol nitelikli partinin kurulması yasaklanmıştır.

Demokratik rejimlerde, vatandaşların politik partilere üye olma hak ve özgürlükleri temel bir ilkedir. Neki, askeri yönetimin çıkardığı siyasi partiler yasası vatandaşlar arasında ayırım yapmakta, büyük bir çoğunluğun bu temel hak ve özgürlüğünü elinden almaktadır. Gerçekten, yasanın 11.maddesi örneğin; Yüksek Öğrenim Kurulu üyelerinin, bankaların aylıklı ve yevmiyeli personelinin, öğrencilerin, duvarlara politik içerikli afiş asmak ve da yazı yazmaktan mahkum olmuş kişilerin, kamu kurum ve kuruluşlarının murlarını diğer benzeri birçok kesimden vatandaşın yanısıra politik partileri üye olmalarını yasaklamış bulunmaktadır.

Askeri yönetim, kendi koyduğu bu yasal sınırlama ile bile tatmin olmayarak uygulamada kurulacak partilerin bu yasaklamalar dışında kalanlardan her başvuruda bulunanı üye yapmalarını istemektedir. Nitekim, General Evren 16 Mayıs 1983 tarihinde yaptığı bir konuşmasında "her önüne geleni partiye kayıt etmemelerini" işaret etmektedir.

Siyasi partilerin kurulması ve özellikle onların en doğal hak ve görevleri olan seçimlere girmeleri ağır koşullara bağlanmıştır. O kadar ki, yasanın amacının siyasi parti kurulmasını önlemek, kurulan engelleri her nasılsa aşabilmişse kurulan olursa seçime katılmasını önlemek olduğunu söylemek

pek de yanlış sayılmayabilir. Nitekim General Evren 22 Temmuz 1983 günü Kırşehir'de yaptığı bir konuşmasında amacın bu olduğunu şu sözlerinde açıklamış oluyordu: "Bu kadar kısa süre de parti kurmak, 34 ilde ve ilçelerinde örgütlenerek seçimlere katılmak güç iştir. Bütün bu çalışmalar için maddi kaynak, yani para gereklidir. Bunlar bu parayı nereden bulacaklar? Bu güçlülere rağmen bugüne kadar 14 parti kuruldu. Bu kadar partinin kurulacağını biz aklımızdan bile geçirmiyorduk. Bu kadar gruplaşmaya, partiye tahammülümüz yoktur.

Yasa, siyasi partilerin faaliyetlerini sıkı bir yasaklar zinciri ile çevir-
ştir. Buna göre örneğin siyasi partiler; "Türkiye Cumhuriyeti ülkesi üzerinde milli veya dini kültür veya mezhep veya ırk veya dil farklılığına dayanan azınlıklar bulunduğunu ileri" süremeyeceklerdir. Hiç kuşku yokki böylesi bir yasak maddi dünyayı yok sayan bir anlayışın ürünüdür. Her ülkede azınlıklar ve bu azınlıkları ayırdeden nesnel özellikler vardır. Bunun aksini savunmak demek onları ortadan kaldırmak amacını taşır. Bu neden, bu madde Kürt ulusuna yönelik bir soykırım amacının yasal zeminini hazırlamaktadır. Ki bu tam da Hitler'in dünya görüşünün bir yansımasıdır. Elbette, bu dünya görüşünü demokratik dünya görüşü ile bağdaştırmak olanaklı değildir. Oysa bilindiği gibi Türkiye çok uluslu ve çeşitli mezheplerin bulunduğu bir ülkedir. Türkiye nüfusunun 1/5'ini Kürt ulusu oluşturmaktadır.

Yasa bu yasaklama zincirinin bir halkasında da siyasi partilerin en doğal hakları olan seçim koalisyonlarını önlemektedir. Çünkü yasaya göre hiçbir parti tüzük ve programı dışında faaliyette bulunamayacağı gibi SEÇİMLERDE BİR BAŞKA PARTİYİ DESTEKLEME KARARI DA ALAMAYACAKTIR. Gene yasa 91. maddesinde siyasi partilerin kadın ya da gençlik seksiyonu (kolu) kuramayacaklarını söylemektedir. Ayrıca yasa 12 Eylül 1980 askersel devirmesi ile o tarihten beri süregelen uygulamaları eleştirmeyi siyasi partileri yasaklayarak, ancak askeri yönetimin destekçisi olan partilerin kurulabilmesini öngörmüş bulunmaktadır.

Siyasi partilerin kapatılması konusunda da yasa anti-demokratik ilkeleri taşımaktadır. Herhangi bir işlem ya da eylemi hakkında verilmiş bir mahkeme kararı olmaksızın salt Cumhuriyet Başsavcısının istemi ile parti yönetimi kimi yöneticilerini görevlerinden çekmek yükümlülüğü altına sokulmuştur. Bu yükümlülüğünü yerine getirmeyen parti hakkında salt bu nedenle kapatma davası açılabilir. Nitekim bu

Öte yandan yasa, askeri yönetime bir partinin kurucularını hiç bir sebep göstermeksizin kurucu saymama (veto etme) hakkını vermiştir. Nitekim bu yetkiye dayanarak askeri yönetim parti kurucusu olanlardan 500 civarında kişiyi veto etmiştir.

Böylece demokrasiye dönmekte olduğunu söyleyen Türkiye'deki askeri yönetim işke böylesi anti-demokratik bir siyasi partiler yasası çıkarmıştır.

F-SEÇİM YASASI:

Siyasi partiler yasası ile birlikte bir de seçim yasası çıkarılmıştır. General Evren 1 Haziran 1983 günü Çorum'da yaptığı konuşmasında "Gerekirse seçimlerde ilan edilen tarikten sonraya bırakılabilir" dediği 6 Kasım genel seçimlerine bir dizi anti-demokratik baskıcı düzenleme ve yasaklamayı içeren bu seçim yasası ile hazırlanmaktadır.

Seçim yasası 11. maddesinde milletvekili seçilemeyecek olanları düzenlemektedir. Buna göre, örneğin Türk ceza yasasındaki Mussolini ceza yasasından tercüme edilmiş düşünce suçlarından (ünlü 141-142. maddeler) mahkum olanlar ile politik içerikli afiş asmak suçundan mahkum olanlar milletvekili seçilemeyeceklerdir. Üstelik bu kişiler affa uğramış olsalar bile milletvekili seçilemeyeceklerdir. Ama 1960 yılında gerçekleştirilmiş askeri devrimin askeri mahkemelerinde vatana ihanetten mahkum olmuş kimi politikacılar cunta ile uzlaştıkları için bu yasaklamanın dışında tutulmuşlardır. Bu amaçla askeri yönetim 91 sayılı bir bildiri yayınlamıştır. Gene yasanın geçici 12. maddesiyle sıkıyönetim komutanlıklarının istemleriyle işten çıkarılmış olanlar 5 yıl süreyle milletvekili seçimine katılamayacaklardır. Böylece askeri yönetim 12 Eylül devirmesinden bu yana bu yolla işten atılmış yüzbinlerce vatandaşa milletvekili seçilebilme olanağının kapılarını kapatmış, onları bu siyasi haklarından yoksun kılarak cezalandırmıştır. Bu kişiler ilk genel seçimlerde oy kullanma haklarından da yoksun kılınmışlardır. Oy verme hakları ellerinden alınanlar arasında tutuklu olanlar da yer almaktadır. Böylece demokratik seçimin bir temel ilkesi; seçimlerin genel olması ilkesi ihlal edilmiştir.

Seçim yasası değişken bir baraj sistemi benimsemiştir. Öncelikle ülke çapında % 10'luk bir baraj kabul edilmiş, bu barajın altında oy alan siyasi partiler milletvekili çıkaramaz hükmü getirilmiştir. Böylece bir ilde oyların tamamını da kazansa bir parti eğer ülke çapında bu barajı aşamamış ise seçimi kazındığı halde kaybetmiş olacaktır. Bunun yanı sıra bir ilde kullanılabilecek geçerli oy sayısının çıkarılacak milletvekili sayısına bölünmesiyle elde edilecek barajı aşamayan parti ülke düzeyinde % 10'luk barajı aşsa bile o ilde milletvekili çıkaramayacaktır. Bu sistem bazı iller açısından barajı % 10'un çok üstüne çıkarabilme olanağını getirmektedir. Nitekim, 6 Kasım seçimlerine katılacak Anavatan Partisi Genel Başkan yardımcısı bu düzenlemeyi eleştirerek bu hükümle barajın bazı illerde % 50'yi bulacağını söylemiştir.

Bütün bunların dışında milletvekili adaylarının adaylıklarının geçerliliği de ancak askeri yönetimin onaylamasıyla olanaklı olacaktır. Askeri yönetimi onaylamayacağı bir kimse aday olamayacaktır. Bu hükmün açık anlamı, yapılacak seçimlerin demokratik ve gerçek bir genel seçim olmayacağıdır. Askeri yönetim böylece seçimli bir parlamentoyu değil, şimdiki danışma meclisinde olduğu gibi atamalı bir meclisi öngörmektedir. Halkta bu oluşumda figüran yapılmak istenmektedir.

III-SORUŞTURMA -YARGILAMALAR:

1 Eylül 1980'den bu yana yürütülmekte olan yığinsal soruşturma ve yargılamalar sürmektedir.

A-SENDİKA DAVALARI:

52 yöneticisi hakkında idam istemiyle açılmış bulunan DİSK davası, hakların da idam istenen yeni sanıtların katılımı ile giderek genişletilerek sürdürülmektedir. Bu davada idami istenen sendikacı sayısı 74'e varmış bulunmaktadır. Yargılama koşulları daha da ağırlaşmakta ve şiddetlenmektedir. Yargılanan sendikacılar gerek tutuk evinde, gerek mahkemede ve gerekse birinden diğerine götürülüp getirilişlerinde kötü muamele görmektedirler. Tüm başvuruları yanıtsız bırakılmakta, dahası DİSK başkanı Abdullah Baştürk mart 1983 tarihinde mahkemeye verdiği dilekçesinde tutukluluk koşullarını şöyle dile getirmektedir. "18 kişi olarak tıkıldığımız ve doktorların "yaşam için tehlikelidir" dediği hücrelerde hava almak son derece zordur. Pencereilerin baktığı havalandırma avlusuna kurum ve gaz boşaltan üç bacanın dumanları nedeniyle yattığımız hücrede yavaş yavaş ölüm tehlikesi içindeyiz. Haftada ancak toplam 60 dakika havalandırmaya çıkarılıyoruz. Normal doktor kontrolü ise 10 günde bir mazgal deliğinden tutuklunun yüzüne bakılarak yapılmaktadır. Aranma, arkadan zincire vurulma, onur kırıcı davranış ve sözler tahammülü zor olaylardandır. Dilerim tarih idam istemiyle ve suçsuz yere yargılanan sendikacıların mahkeme sonuçlanmadan ceza evinde öldüklerinde tanık olmaz"

Bu dilekçeyi verdikten bir süre sonra mahkeme bir başka vesileyle Abdullah Baştürk'ün duruşma inzibatını bozduğu gerekçesiyle 7 gün süreyle hücre cezası ile cezalandırılmasını kararlaştırdı. DİSK davasının yanısıra, DİSK'e bağlı sendikalar hakkında da davalar açılmaya başlanmıştır. Bu davalarda tüm sendika yöneticileri hakkında 20 yıla varan çeşitli hapis cezaları istenmektedir.

B-SİYASİ PARTİLER ÜZERİNDEKİ DAVALAR:

12 Eylül öncesinde yasal çalışma içinde bulunan Türkiye İşçi Partisi ve Türkiye Sosyalist İşçi Partileri hakkında yöneticilerinin 15 yıla kadar

hapisleri istenerek davalar açılmıştır.Bu davalar halen sürmektedir.

12 Eylül öncesinde de Türkiye'de üzerindeki yasağın sürmekte olduğu Türkiye Komünist Partisi hakkında da açılmış davalar sürmektedir.

Milli Selamet Partisi hakkında açılmış davada henüz kesin karara bağlanmamış bulunmaktadır.

Milliyetçi Hareket Partisi davası sürmektedir.Bu davada Kahramanmaraş katliamından sorumlu olmadığı kararı verildi..

Bunların dışında gene 12 Eylül öncesinde üzerindeki yasaklamaların sürdüğü Türkiye Kürdistan Sosyalist Partisi ve Kürdistan Öncü İşçi Partisi haklarını da ağır cezalar istemli davalar açılmıştır.

Aynı şekilde öteki sol politik hareketler içinde illegal parti oldukları gerekçeleriyle bazılarında onlarca ve hatta Fatsa örneğinde görüldüğü gibi yüzlerce idam istemiyle davalar açılmış, böylece sürmekte olan politik davalarda idam istemleri 5000'i aşmıştır.

C-DEMOKRATİK KAMUOYU VE KİTLE DERNEKLERİ HAKKINDAKİ DAVALAR:

Başta TÖB-DER olmak üzere kimi örgütler hakkında açılan davalar, bu arada sonuçlandırılmış, 5 ila 15 yıl arasında cezalar verilmiştir.

Kimi demokratik örgütler hakkındaki davalar ya yeni açılmış ya da halen sonuçlandırılmamış bulunmaktadır. İlerici Gençler Derneği ile İlerici Kadınlar Derneği hakkında açılan davaların yargılamaları yeni başlamış bulunmaktadır. Bu davalarda da 5 yıldan 15 yıla dek değişen cezalar istenmektedir.

D-TÜRKİYE YAZARLAR SENDİKASI DAVASI:

Aralarında Türkiye'nin uluslararası şöhrete sahip en değerli yazarların da bulunduğu seçkin yazın adamları hakkında da 5-15 yıl arasında değişen hapis istemli açılmış dava devam etmektedir.

E-TÜRKİYE BARIŞ KOMİTESİ DAVASI:

Emekli büyükelçi Mahmut Dikerdem'in başkanı olduğu Türkiye Barış Komitesi hakkındaki davada sonuna gelmiş bulunmaktadır.Bu davada barışseverler askeri mahkemede savaş hali usulü hükümlerine göre yargılanmaktadırlar.Haklarında 8 ila 15 yıl arasında ceza istenen barışseverler arasında 4'ü CHP üyesi 1'i bağımsız olmak üzere 5 milletvekili, İstanbul Barosu başkanı Orhan Apaydın, profesörler, Fakülte dekanları, doktor, mühendis, avukat, yazar, ressam, şair, Tiyatro ve Sinema sanatçıları, Öğretmenler yani top-

lumun kendi alanlarında en seçkin kişilikleri yargılanmaktadır.Savunma hakları kısıtlanmıştır.Kanser hastası olan büyükelçi Dikerdem'in tedavisi için talepleri kabul edilmemektedir.Ayağı alçıda olduğu ve mutlak yatak istirahatini içeren doktor raporuna rağmen şair Ataol Behramoğlu'nun duruşmaya zorla getirilmesi için karar veren bir mahkeme heyeti davayı görmektedir.Ressam Orhan Taylan bir başka dava bahane edilerek yeniden tutuklanıp işkence görmektedir.Savunmasını hazırlaması için kendine kalem ve kağıt bile verilmemiştir.

İstanbul Barosu yönetimi hakkında soruşturma açılmıştır.Bunun gibi öteki kimi yasal meslek odaları hakkında da soruşturmalara geçilmiş bulunmaktadır.

F-TUTUKEVİ KOŞULLARI:

Tutukevlerindeki koşullar artık insan hakları tartışmasının da ötesinde, tutukluların yaşamlarının sürdürebilip sürdürülemediği noktasına gelmiş bulunmaktadır. Tüm başvuruların yanıtsız kalması üzerine İstanbul'da ikibin aşkın tutuklu açlık grevine başlamıştır. Bu grev sırasında iki tutuklu ölmüş, profesör Yalçın Küçük'de içlerinde olmak üzere komaya girmiş olup halen cezaevi hastanelerinde bulunmaktadır.Ne ki tutukevi koşullarında hala bir düzelme görülmemektedir.

Şu günlerde aynı gerekçeyle Diyarbakır tutukevinde de yığinsal bir açlık grevi eylemi sürmektedir.

COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1982

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C. Torture

1009

The Turkish criminal code and the new Constitution, as well as that of 1961 forbid torture and prescribe the severe punishment for violators. In March 1982 the Turkish Government issued a statement that "In March 1982 the Turkish Government issued a statement that 'The September 12 military administration had been careful to stay within the rule of law. In spite of the this, from time to time, instances of torture occurred. In spite of the Government of the Republic of Turkey ever approved of the torturing those arrested and closely investigated every instance.'"

Some light is cast on the incidence of torture and the Government's efforts to halt it by the most recent Turkish October 1982 report on anti-terrorist activities, issued in investigation since the September 12 military takeover. Through October 4, 1982, 171 cases have been disclosed as groundless; 37 cases have been referred to the courts for prosecution; 16 cases have been referred to the courts for pending completion of their cases; 76 persons are at liberty. Investigation of claims that 204 persons have died of torture between September 12, 1980, and October 4, 1982, shows four persons to have died as a result of torture and 70 deaths from other causes. Investigations and judicial proceedings in 1982 either for torture or allegations are under way, and cases are being opened against 108 security personnel. The present Government is believed to be the first in Turkish history publicly to admit that torture was practiced by its personnel. There have been examples of government efforts to punish past officials for torture who were sentenced to prison. In early December, 1982, five Iraqi policemen to 16-month terms.

In January 1982, Amnesty International issued a report that the Turkish Government had failed to respond to Amnesty's request for information since the event of the September 12 coup. According to the report, the Turkish Government had failed to respond to the others on the Amnesty International list. connection with the matter were under way while three cases, resulting in prison terms for nine security officers, had been completed. In a related development, the Ministry of Justice announced reforms in penal administration, including special training for guards and other prison personnel. Allegations of torture at Istanbul's Marit military prison in June 1982 and elsewhere, continue to be made. Amnesty International, the Council of Europe, and other human rights groups have expressed concern over such reports. Turkey does not seem to have continued to investigate allegations of torture and publish their updated findings.

d. Cruel, Inhuman, or Degrading Treatment or Punishment
The 1962 Constitution closely follows the 1961 Constitution in stipulating that "no punishment or ill-treatment incompatible with the dignity of man shall be inflicted on anyone."

-11-

G-IŞKENCELER VE ÖLDÜRMELER:

12 Eylül'den beri süre gelen işkence uygulamasında herhengi bir azalma olmadığı görülmektedir. İşkenceler sırasında kimi sanıklar öldürülmektedir. Bunlar bazen aile ve yakınlarına bile haber verilmeden gizlice gömülmektedir. Böyle bir olay tam da 7 Kasım referandumundan sonra reyan etmiş genç bir ekonomist Mustafa Hayrullahoğlu işkencede öldürülerek İstanbul'da gizlice gömülmüştür. Olay işkence kurbanının ailesi tarafından ısrarla sürdürülen araştırma sonunda açığa çıkarılmıştır.

İşkencelerin yapılmakta olduğu, hem resmi hükümet raporlarından ve sözcülerinin beyanlarından, hem çeşitli yargı kararları ile duruşmalar sırasında yargılananların anlatımlarından ve hem de çeşitli dış ülke ve uluslararası hükümetler dışı örgütlerin raporlarından anlaşılmaktadır.

IV-YÜRÜTME:

A)YÖK-SIKIYÖNETİM İŞBİRLİĞİYLE,

12 Eylül 1980'den itibaren sıkıyönetim komutanlıklarınca "sakıncalı" görülen işçi, memur, öğretmen, müfettiş, öğretim görevlisi ve üyesi, idareci (kaymakam, vali, genel müdür vs.) 50.000 in üzerinde görevlinin işlerine sıkıyönetim komutanlıklarınca son verilmiştir.Bu sayı gün geçtikçe artmaktadır.

Son aylarda üniversitelerden 2000 in üzerinde öğretim üyesi ve (profesör, doçent, asistan) öğretim görevlisinin görevlerine son verilmiştir. Yapılan baskılar sonucunda bazı öğretim üyeleride istifa etmek zorunda kalmışlardır.

Örneğin, Temmuz 1983'de Erzurum Atatürk Üniversitesi, Marmara Üniversitesi ve Uludağ Üniversitesinden 269 öğretim görevlisinin, ağustos 1983 ayının başında İlahiyet Fakültesi, Uludağ Üniversitesinden toplam 28, Gazi Eğitim Enstitüsünden de 170 olmak üzere 198 öğretim görevlisinin işlerine son verilmiştir.

Yüksek Öğretim Kurulu (YÖK) yasasına dayanılarak görevlerine son verilen ve istifa zorunda bırakılan bazı profesör, doçentlerin isimleri şunlardır.

- 1.Prof.Yakup Kepenek"Ortadoğu Teknik Üniversitesi"
- 2.Doç.Cemal Koçun " " " " "
- 3.Prof.Oya Silier "Boğaziçi Üniversitesi"
- 4.Prof. Metin Özek "İstanbul Tıp Fakültesi"
- 5.Prof.Tuncer Bulutay"Siyasal Bilgiler Fakültesi"
- 6.Prof.Burhan Cahit Onal"Fen Fakültesi"
- 7.. f.Yalçın Küçük"Gazi Eğitim Enstitüsü"
- 8.Prof.Erdem Aksoy"Karadeniz Teknik Üniversite eski rektörü"
- 9.Prof.Özgönül Aksoy" " " " "
- 10.Doç.Tahsin Yılmaz"Ege Üniversitesi"

İSTİFA EDENLER:

- 1.Prof.Bahri Savcı"Ankara Üniversitesi"
- 2.Prof.Tarık Zafer Tunaya"İstanbul Üniversitesi"
- 3.Doç.Kemal Soybaşlı
- 4.Doç.Sadık Baklacioğlu
- 5.Prof.Oya Tuncer"Ege Tıp Fakültesi"
- 6.Prof.Süleyman Çetineroğlu" Ege Üniversitesi"
- 7.Doç.Bülent Himmetoğlu" " " "
- 8.Doç.Ercan Kızılay " " " "

- 9.Doç.İlber Oltaylı"Siyasal Bilgiler Fakültesi"
- 10.Doç.Hasan Ersel " " " " "
- 11.Doç.Fazıl Sağlam" " " " "
- 12.Doç.Şevket Pamuk" " " " "
- 13.Doç.Şehmuz Güzel" " " " "
- 14.Doç.Çağlar Kesder"ODTÜ"
- 15.Orhan Kurmuş " " "
- 16.Doç.Güntaş Özler "
- 17.Doç.Yılmaz Öztürk "İstanbul Basın Yayın Yüksek Okulu"

Ayrıca sadece Haziran 1983 ayında 50'ye yakın kaymakam bu görevlerinden alınarak memurluğa atanmış, 11'Kaymakam ve Vali muavinlerinin görevlerine son verilmiştir.Görevlerine son verilen bazı vali muavinleri:

- 1.Mustafa Korkmaz Dinçer "Konya Valiliği Hukuk İşleri Müdürü"
- 2.Halep Ceviroğlu"Ordu Vali Muavini"
- 3.Aziz Sevinç"Nevşehir Vali Muavini"
- 4.Selahattin Eren"Balıkesir Vali Muavini"
- 5.Osman Nuri Egoge"Mardin Valiliği Hukuk İşleri Müdürü"
- 6.Nihat Öner"Amasya Valiliği Hukuk İşleri Müdürü"

Ayrıca, kamu kuruluşlarından ve özel sektörden binlerce işçinin ve kamu kurumlarında çalışan binlerce memurun(öğretmen, genel müdür, polis ve müfettişlerin) görevlerine son verilmiştir. Örneğin sadece Çalışma Bakanlığı'nda 4 genel müdür yardımcısının 100'e yakın iş müfettişinin işine son verilmiştir.

Görevlerine son verilen binlerce işçi ve memurun bir daha kamu hizmeti yapamayacaklarına ilişkin yasada, Ocak 1983 ayında yürürlüğe girmiştir.Böylece binlerce kişi bir daha kamu hizmeti yapamayacağı gibi "sakıncalı" oldukları gerekçesiyle özel sektörde de çalışamayacaklardır.Böylece tüm devlet kademelerine seçilmiş yerel yöneticilerin yerine emekli subay ve assubaylar yerleştirilmektedir.Bu suretle tüm devlet kurumları militaristleştirilmektedir. Bunun yanısıra yeni bir kararname çıkarılarak başta barolar olmak üzere tüm bağımsız meslek kuruluşları hükümete doğrudan bağımlı kılınmışlardır.

B-SİYASİ PARTİLERİN KURULUŞUNDAN SEÇİME DOĞRU GİDEN YOLDAKİ SON GELİŞMELER:

Siyasi partilerin kuruluşu sırasında askersel yönetim yasada sözü edilen kurucu üyeler hakkında inceleme yapma ve veto etme yetkisini en geniş biçimde kullanmıştır.Böylece kurulan siyasi partilerin kurucu üyelerinden 500'e yakın kişi veto edilmiştir.Bunların arasında Türkiye Cumhuriyetinin kurucularından İsmet İnönü'nün oğlu Prof.Erdal İnönü ki yeni kurulan SODEP'

in başkanıydı, 12 Mart 1971 askersel yönetim döneminin bakanlarından ve günümüzde Türkiye Barolar Birliğinin başkanı Atilla Sav gibi birçok kişi bulunmaktadır. Bu vetoların toplumda yarattığı hoşnutsuzluğun yanı sıra veto edilenlerinde kişisel olarak kırılganlıkları karşısında General Evren bir konuşmasında vetoların kişisel özelliklerden değil, politik nedenlerden ötürü olduğunu açıklamıştır.

Siyasi partilerin kurulması aşamasında askeri yönetim ile ters konumlara düşen, aralarında eski Başbakan Süleyman Demirel, Dışişleri Bakanlarından .Sabri Çamlayangil, CHP Bakanlarından Deniz Baykal gibi 16 eski parlamenter gözaltına alınarak Çanakkale'ye sürgüne gönderildiler.

Kurulan 15 politik partiden Büyük Türkiye Partisi Demirel'in Partisi'nin devamı olduğu gerekçesiyle askeri yönetim tarafından kapatıldı. Sürdürülen vetolar sonucunda tanınan süre içinde ancak 5 parti seçime katılmak için öngörülen sayıda ilde örgütlenebildi. Bunlardan SOEP ve Doğru Yol partilerinin kurucu üyeleri veto edilmeye devam edilerek öngörülen süre içinde seçime katılabilmeleri için gerekli kurucu üye sayısına ulaşmaları açıkça engellenmiş oldu. Böylece seçime, askeri yönetimin kabul ettiği 3 Partiye ancak seçime katılma olanağı tanınmış oldu. Bu partilerden MDP'nin başkanı cuntaya mensup bir emekli generaldir. Ana-VP başkanı cunta hükümetinde ekonomik işlerden sorumlu başbakan yardımcısı olarak görev yapmış bir kişidir. H.P. başkanı ise cunta hükümetinin başbakanının müsteşarıdır. Bu üç partide cuntanın organizasyonlarıdır.

Bu uygulamanın kamu vicdanında onay bulduğunu söylemenin zorluğu bir yana yapılacağı söylenen 6 Kasım seçimlerinin meşruiyetine en hafif deyişle gölge düşürmüştüğü muhakkaktır.

Seçime katılacak siyasi partilerin askeri yönetim tarafından böylece saptanmasından sonra seçim hazırlıklarına geçildi. Partiler seçime katılacak adaylarını saptayarak başvuruda bulundular. Askeri yönetim bu adaylar üzerinde yaptığı ilk incelemesinin sonunda toplam 672 aday veto etmiş bulunmaktadır. Bu durumda 6 Kasım'da yapılacak seçimlerin sonucunda Parlamenta girecek yeni milletvekillerinin şeklen seçilmiş kişiler olsa da gerçekte askeri yönetimin atadığı kişilerden olacağı görülmektedir. Vetolarda ağırlıklı bağımsız adaylar hedeflenmiştir. 475 bağımsız adayın 428'i veto edilmiştir. Böyle olunca da 6 Kasım seçimlerinin demokratik, genel seçimler diye tanımlamak olanaklı olmayacaktır. Bu seçim gerçek seçim değil resmi seçim olacaktır.

V-SONUÇ:

7 Kasım referandumundan sonra şimdi Türkiye yeniden bir başka kilometre taşına gelmiş bulunmaktadır. Askeri yönetimin uygulamalarından ortaya çıkan durumu değerlendirmede yukarıda sıraladığımız veriler bir fikir vermeye elverişli, yeterlidirler.

Şimdi Türkiye'de yeni bir durum vardır. Artık Türkiye bir yol ağzında değildir. Bu verilerin somut olarak gösterdiği tek şey askeri yönetimin kendi volunu seçmiş ve o yolda ısrarlı biçimde yürümekte olduğudur. Bu yol Türkiye'de faşist bir rejimi kurumlaştırmaktadır. Türkiye'nin bu yönetim altında çekilip sürüklenmekte olduğu yol, kuşku yokki üyesi olduğu Avrupa halklarının üzerinde bulundukları yol değildir. Avrupa Konseyi ilkeleri ile kesin çelişmektedir.

Türkiye'de örnekleriyle özetlediğimiz bu son gelişmeler karşısında Avrupa Konseyi yürürlükteki ilkeleri ve statüsüyle tutarlı kalacaksa Türkiye'nin bu yönetim altında Avrupa Konseyi üyeliği devam ettirilmemelidir.

TÜRKİYE SOSYAL TARİH

TÜRKİYE SOSYAL TARİH ARAŞTIRMA VAKFI
TÜSTAV

Sixth item on the agenda

TWO HUNDRED AND TWENTIETH REPORT OF THE
COMMITTEE ON FREEDOM OF ASSOCIATION

TABLE OF CONTENTS

	<u>Paragraphs</u>
INTRODUCTION	1 - 4
CASES Nos. 997, 999 and 1029 (TURKEY) Complaints presented by the World Confederation of Labour, the World Federation of Trade Unions, the International Confederation of Free Trade Unions and several other trade union organisations against the Government of Turkey Representation presented by the General Confederation of Trade Unions in Norway under article 24 of the Constitution alleging non- observance of the Right of Association (Agriculture) Convention, 1921 (No. 11) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) by Turkey	5 - 107
A. Previous examination of the cases by the Committee	10 - 19
B. Further communications from the complainants	20 - 24
C. Intervention of the Director-General	25
D. The Government's observations	26 - 38
E. The mission to Turkey	39
F. Further developments	76 - 79
G. Conclusions of the Committee	80 - 106
<u>Recommendations of the Committee</u>	107

Annex.

TÜRKİYE SOSYAL TÜSTAV
TARİH ARAŞTIRMA VAKFI

GOVERNING BODY
CONSEIL D'ADMINISTRATION
CONSEJO DE ADMINISTRACION

Geneva,
16-19 November 1982

Sixth item on the agenda

TWO HUNDRED AND TWENTIETH REPORT OF THE
COMMITTEE ON FREEDOM OF ASSOCIATION

INTRODUCTION

1. The Committee on Freedom of Association, set up by the Governing Body at its 117th Session (November 1951), met at the International Labour Office, Geneva, on 8, 9 and 12 November 1982 under the chairmanship of Mr. Roberto Ago, former Chairman of the Governing Body.

2. The Committee had before it various complaints of infringements of trade union rights in Turkey presented by a number of trade union organisations (Cases Nos. 997, 999 and 1029), as well as a representation concerning the non-observance by Turkey of the Right of Association (Agriculture) Convention, 1921 (No. 11), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), made by the General Confederation of Trade Unions of Norway under article 24 of the Constitution of the ILO.

3. At its 219th Session (March 1982) the Governing Body adopted the interim conclusions submitted to it by the Committee in its 214th Report.

4. Since then, the Government has transmitted certain information and an on-the-spot mission to Turkey has taken place. The Committee submits for the approval of the Governing Body a further report on this case and recommends the Governing Body to examine this report at its 221st Session.

Cases Nos. 997, 999 and 1029

COMPLAINTS PRESENTED BY THE WORLD CONFEDERATION
OF LABOUR, THE WORLD FEDERATION OF TRADE UNIONS,
THE INTERNATIONAL CONFEDERATION OF FREE TRADE
UNIONS AND SEVERAL OTHER TRADE UNION ORGANISATIONS
AGAINST THE GOVERNMENT OF TURKEY

Representation presented by the General Confederation
of Trade Unions in Norway under article 24 of the
Constitution Alleging Non-Observance of the Right of
Association (Agriculture) Convention, 1921 (No. 11)
and the Right to Organise and Collective Bargaining
Convention, 1949 (No. 98) by Turkey

5. The Committee has already examined these cases on several occasions, the

last being at its February 1982 meeting when it submitted an interim report to the Governing Body.¹

6. Since then, the ILO has received communications from the following complainant organisations: the World Confederation of Labour (25 February and 9 March 1982); the International Confederation of Free Trade Unions (25 February 1982); the Trade Unions International of Textile, Clothing, Leather and Fur Workers (24 February 1982); and the World Federation of Trade Unions (22 March and 8 October 1982). All of these communications were immediately passed on to the Turkish Government for its observations. In addition, the ILO sent telegrams to the Government on 2 and 16 March 1982 urgently requesting it to transmit its observations. The Government supplied its observations in communications dated 13 April, 7 May, 25 and 28 October and 4 November 1982.

7. By a communication dated 15 June 1982 the General Confederation of Trade Unions of Norway, referring to article 24 of the ILO Constitution, made a representation to the Office alleging non-observance by the Government of the Right of Association (Agriculture) Convention, 1921 (No. 11) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

8. In addition, with the consent of the Government, Mr. Ian Lagergren, Chief of the International Labour Standards Department, carried out an on-the-spot visit to Turkey as the Director-General's representative. He was accompanied by Mr. William R. Simpson, Chief of the Freedom of Association Branch. The mission to Turkey took place from 12 to 22 July 1982.

9. Turkey has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), but has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

4. Periodic examination of the case by the Committee

10. The complaints of the three major international workers' confederations and other trade union organisations referred to their extreme concern in the face of the extensive repression suffered by a large segment of Turkey's trade union movement since the military takeover on 12 September 1980. The complainant organisations specifically denounced the violent deaths of trade unionists, the imprisonment of a large number of trade union officials and militants and the ill-treatment which they allegedly received during their lengthy period of police custody (at least 45 days), in particular the inhumane treatment of Mrs. Oksan Yardimci, adviser to the DISK.² They also referred to the possible death penalty facing 52 union leaders for having taken part in trade union activities such as strikes called to defend the occupational interests of the workers, and the restrictions placed on the rights of the defence by the military tribunal during the trial of these 52 leaders. In addition, they referred to the suspension of two trade union confederations, the DISK and the MISK, unions affiliated to them and even certain unions affiliated to the only confederation still representing the workers - the TÜRK İS - and the freezing of their assets, the suspension of the right to strike throughout the country, the strict limitations on the right to bargain collectively and the allegation that trade unionists had been deprived of Turkish nationality.

11. In view of the gravity of the allegations, the Committee on Freedom of Association had suggested, as early as its meeting in May 1981, that the Government should accept the principle of an on-the-spot visit of a representative of the Director-General so as to examine together the questions pending. Since the

¹ See 214th Report, paras. 541 to 574, approved by the Governing Body at its 219th Session (March 1982).

² For a detailed description of the allegation relating to the torture inflicted on Mrs. Yardimci, see 214th Report, para. 551.

- "(b) Regarding the trial of 52 DISK leaders liable to capital punishment which opened on 24 December 1981, the Committee notes with concern that, according to the complainants, it is being conducted according to a procedure where the rights of the defence have been restricted by a decision of the military tribunal to apply the provisions of martial law. It recalls that trade unionists, like anyone else, should have adequate facilities for preparing their defence and the right to communicate with counsel of their own choosing. It expresses the firm hope that no death sentences will be pronounced. It requests the Government to keep it informed of the situation of all the imprisoned trade unionists mentioned by the complainants and trusts that the Government will release as quickly as possible all of the trade unionists wrongfully imprisoned.
- "(c) As regards the alleged ill-treatment inflicted on the persons imprisoned, and on Mrs. Yardinci in particular, the Committee notes with regret that the Government has not yet replied to the detailed allegations relating to this person. It requests the Government to supply its observations on the matter. Nevertheless the Committee wishes to point out that such allegations, if proved, would constitute a clear violation of civil liberties and trade union rights. The Committee requests the Government to communicate the results of the careful inquiries undertaken concerning the alleged ill-treatment which the Government mentions in its communication. It calls upon it to ensure that the living conditions in penitentiary establishments respect human dignity and the safety of life and limb and also requests it to review existing legislation with a view to reducing the period of police custody, if it is still 45 days.
- "(d) Regarding the suspension of the right to strike and the restrictions on collective bargaining existing since 12 September 1980, the Committee requests the Government to lift these measures without delay, since they constitute a serious interference with the free exercise of trade union rights, and asks the Government to keep it informed of any progress made in re-establishing trade union rights.
- "(e) Regarding the administration of DISK property placed in the hands of trustees by the labour courts, the Committee recalls that the right to protection of the property of trade union organisations is essential for the normal exercise of trade union rights and that the public authorities must refrain from any interference in the right of trade unions to organise their administration. The Committee therefore requests the Government to lift the measures of intervention in question as quickly as possible and to supply information on any steps taken to that end.
- "(f) Lastly, the Committee again requests the Government for its observations on the allegation to which it has not replied, that trade unionists have been deprived of Turkish nationality."

B. Further communications from the complainants

20. Immediately after the Committee's February 1982 meeting and even before the end of the Governing Body's March 1982 Session, all of the complainants reported that Mr. Orphan Opaydin, President of the Istanbul Bar Association, had been arrested on 24 February 1982. According to the WCL, Mr. Opaydin played an important part in organising the defence of the persons on trial in the DISK case. According to the ICFTU, he was in fact the principal counsel for the defence. According to the WFTU, he had been openly threatened by the public prosecutor as soon as the trial opened. The WCL and the ICFTU stated that the pretext for his arrest related to his connection with the Peace Committee of which he was one of the founders. According to the WFTU, his arrest was a clear violation of the rights of the defence.

21. In a communication of 9 March 1982, the WCL also stated that Mr. Von Drooghenbroeck, a lawyer who went to Turkey, at the Confederation's request, to attend the trial of the 52 DISK leaders and stayed in Istanbul from 23 to 29 December 1981, mentioned in the report on his mission that he had met Mr. Takkeci, the military prosecutor, on 28 December 1981. The prosecutor told him that the charges brought against the 52 trade unionists imprisoned did not rest on any

Government failed to reply positively to this suggestion, the Committee requested it, on several occasions,¹ to reconsider its decision.

12. On the substance of the cases, the Government, during the previous examination, replied that its priority objective was the complete elimination of the general climate of insecurity and violence prevailing in the country in the recent past. According to it, considerable progress had been made, the situation had improved and the positive effects of that improvement were also being felt by the trade union movement.

13. The Government went on to state that no trade unionist in Turkey had been taken to court for acts that were normally considered as trade union activities and that the 52 trade unionists currently on trial were being judged on the basis of evidence showing that they had participated in, encouraged and supported terrorist and illegal activities with a view to overthrowing the regime and replacing it by another founded on a political doctrine which had no place in Turkey's constitutional system. The Government confirmed that the trial had begun and had now reached the stage of the reading of the bill of indictment. According to penal procedure, that was to be followed by the cross-examination of the persons on trial and their defence, after which the judges would make their decision. The Government acknowledged that the bill of indictment requested the application of section 146 of the Penal Code providing for the death penalty.

14. Regarding the allegation that the rights of the defence of the trade unionists on trial had been restricted from the very start, the Government replied that the allegation was false. According to it, the state of emergency tribunals applied the provisions of martial law contained in the Act to establish military tribunals authorising them to limit the number of lawyers present at a trial to the number of persons charged, which did not prevent the other lawyers, where there were any, from taking part in the defence. Since 10 December 1981, the trade unionists under arrest had been able to contact and communicate with their lawyers without any restriction.

15. Regarding the allegation that the trade unionists or other persons under arrest had been ill-treated, the Government stated that a careful inquiry was being made into the matter. Generally speaking, no grounds had been found for any of the allegations of ill-treatment of trade unionists. It also stated that Mrs. Oksan Yardimci, who the WCL alleged had been tortured, was charged with belonging to illegal clandestine organisations. The Government did not comment on the allegations that she had been tortured.

16. Regarding the trade union situation in general, the Government stated that a timetable for re-establishing democracy had been officially announced by the Head of State providing for a referendum in the autumn of 1982 on the Constitution currently being prepared by the Consultative Assembly and the organisation of general elections in the autumn of 1983 or the spring of 1984 at the latest. Meanwhile, all the necessary measures for the protection of workers' rights and of their standard of living were being taken. The ban on dismissals was maintained and collective agreements were renewed by the Supreme Arbitration Board in the light of the workers' acquired economic and social rights and wage increases higher than the rate of inflation.

17. The Government confirmed that the activities of the DISK and the MISK had been suspended pending the decision of the tribunals. The other trade unions were free to organise their activities.

18. The DISK's trade union property was being managed in accordance with legal provisions by trustees appointed by the local labour courts.

19. In these circumstances, the Governing Body, at its March 1982 Session, approved the Committee's interim report and the following conclusions in particular:

"(a) As regards the proposal for a mission on the spot, the Committee deplores the fact that the Government has not replied positively despite the time elapsed since the first proposal and several reminders sent by the Office. The Committee urges the Government to give its consent as soon as possible so that a representative of the Director-General may carry out a direct contacts mission to Turkey.

¹ See 214th Report, paras. 563 and 574.

material facts established against the accused but only on their membership of the DISK.¹ The prosecutor also stated that he was about to bring action against certain lawyers taking part in the defence of the DISK leaders, also under sections 141, 142 and 146 of the Penal Code, since, in his words, "these lawyers, by accepting the defence of their clients, have also adhered to their ideology".²

22. To the Government's previous assertion that "the trade unionists under arrest have been able to contact and communicate with their lawyers without any restriction", the WCL stated that the prisoners and their lawyers, when meeting, must form two rows separated from each other by a broad corridor occupied by armed police.

23. The WFTU also sent a mission to Turkey from 17 to 23 January 1982. According to the mission's report, 40,000 trials are now under way and 70 persons have died as a result of ill-treatment; furthermore, in the Metris prison in Istanbul, 107 prisoners have been hospitalised as a result of torture; Abdullah Basturk is suffering from tuberculosis and Mrs. Ilgi Vars, a full-time lawyer of the MADEN-IS trade union, was hung by her arms for two hours, struck on the chest and subjected to electric shock torture. The report also mentions deplorable conditions of imprisonment in military bases, hospitals and unheated and unhealthy gymnasiums. It alleges that some prisoners were beaten in the presence of their lawyers, and that other lawyers saw prisoners compelled by the guards to practise gymnastics in the snow. At the Kabakos prison near Istanbul, the conditions are so bad that, despite repressive measures, the prisoners carried on a hunger strike.

24. Lastly, the Trade Unions International of Textile, Clothing, Leather and Fur Workers sent a mission to Turkey from 25 January to 5 February 1982. This mission reports, in particular, that 185 members of the TEKSTIL textile federation in Paris were sentenced to between 2 and 24 years' imprisonment for having taken part in strikes early in 1980.

C. Intervention of the Director-General

25. On hearing of the arrest of Mr. Opaydin, President of the Istanbul Bar and counsel of the DISK leaders, the Director-General sent a telegram to the Turkish Government on 2 March 1982 urgently requesting it, in view of the gravity of the allegation, to send its observations and information about its intentions concerning the release of Mr. Opaydin.

D. The Government's observations

26. In an initial communication of 13 April 1982, the Government explained that the arrest of Mr. Opaydin was unrelated to his capacity as President of the Bar or counsel for the defence of the DISK leaders but was the result of an investigation opened a year-and-a-half ago concerning members of the executive bodies of the Peace Committee in Turkey. The Government claimed that it had no way of interceding in favour of Mr. Opaydin, of ensuring his release or of influencing the court of justice; only the competent tribunal could take a decision on the case.

27. The Government explained the facts in the following manner: proceedings were instituted against Mr. Opaydin, as well as the 44 members of the steering committee of the Peace Committee, for having infringed section 141 (5) of the Penal Code and Act No. 1630 respecting associations, beginning on 27 October 1980. Since, on 6 January 1981, the court refused to issue a warrant for the arrest of the 44 members of the committee, as requested by the public prosecutor on 30 December 1980, the proceedings were extended under sections 140, 142 and 312 of the Penal Code. A committee of experts set up at the request of the public prosecutor, composed of two professors and one assistant professor of the Istanbul Faculty of Law, reached the conclusion that the activities of the Peace Committee were not consistent with the

¹ Page 8 of the report on Mr. Von Drooghenbroeck's mission.

² *ibid.*, p. 9.

purpose for which it had been established and constituted grounds for indictment under the provisions of sections 142(3) and 312 of the Penal Code governing propaganda contrary to the national interests and vindication of a criminal act. On 10 February 1982, the public prosecutor renewed his request, and the court, after having examined the file, issued a warrant for the arrest of the 44 officers of the Peace Committee. At the beginning of April 1982, 23 of them, including Mr. Opaydin, were arrested; the police were still looking for the other 21. The Government concludes that an appeal against the arrest of the officers was rejected on 14 May 1982.

28. In its communication of 7 May 1982, the Government stated that, in view of the wish expressed by the Committee and its own willingness to co-operate, it was prepared to accept the principle of an on-the-spot visit by a representative of the Director-General to examine jointly the questions pending in the present case.

29. On the substance of the case, the Government, in reply to the Committee's request to release wrongfully imprisoned trade unionists, stated that there were no trade unionists in Turkey wrongfully imprisoned. If a person was in prison, it was because he had been sentenced under laws which had been in force for a long time. The trade unionists in prison were entitled, like everyone else, to the necessary facilities for their defence and to communicate with lawyers of their own choosing. Their right to a trial by a fully independent court was guaranteed.

30. In the trial of the 52 trade unionists, which was being conducted in full conformity with the applicable procedure, the phase of reading the bill of indictment had been completed. After a suspension of roughly one month to allow the accused to organise their defence, the trial had just been resumed and the phase of cross examination begun. The next phase would be devoted to hearing the defence.

31. The Government went on to say that the allegations of ill-treatment of prisoners formed part of a campaign that had been directed against Turkey for some time to influence international bodies likely to be interested in allegations of the sort. ~~In this connection the Government stressed that all the alleged ill-treatment~~ inhumane treatment were crimes under Turkish legislation. Public prosecutors had the duty and responsibility to open an inquiry into each allegation of this nature, and the Government saw to it that the existing legal provisions on the matter were enforced. If cases of ill-treatment occurred despite its vigilance, it was the first to deplore them. In this context, the number of alleged cases of torture which had been brought to the attention of the authorities by last March came to 390. An inquiry into 152 cases had been completed at that time. In 115 cases it had been found that no legal proceedings were justified. Thirty-seven cases had been brought before the courts and 90 police officers in all had been tried on the charge of practising torture. Seven trials had resulted in the acquittal of 11 persons and in the conviction of seven persons to prison sentences ranging from 18 months to 14 years and their definitive disqualification from the public service.

32. Regarding the trade unionists said to have suffered ill-treatment, two specific allegations had been made so far. The first concerned the case of Mr. Bastürk. Following the publication in the press of articles stating that he had been ill-treated, Mr. Bastürk was immediately submitted to a medical examination and questioned. Neither the medical examination nor Mr. Bastürk's replies to the questions put to him by the public prosecutor indicated that there were any grounds for the allegations concerning him. The other case, about which the Committee seemed to be particularly concerned, related to Mrs. Yardimci. The authorities to which this case was referred had not been able to find any grounds for the allegations of the complainant organisation. Mrs. Yardimci had gone on hunger strikes lasting one day each on 12 June, 29 July and 18 September 1981, 13 days from 23 September to 5 October 1981 and 3 days from 28 to 30 December 1981, to obtain her release. Each time the strike was over, the Government stated, she had received the necessary medical care.

33. Regarding the complaints alleging that 70 persons had died as a result of the torture inflicted on them, the inquiry on this matter showed that the deaths of 15 of the persons had no relation to any ill-treatment they were said to have received. Eight of these persons had never been arrested and were alive, four were in prison but were alive, one had been arrested and then released and was alive. Three of the 15 persons had lost their lives during an armed confrontation with the police, after having killed a policeman. Three other persons had died after an armed confrontation between opposing terrorist groups.

that took place on that date. It was obvious, however, that to enable the Committee on Freedom of Association to make as objective an evaluation as possible of the measures taken by the military authorities following their intervention - measures which affected the trade union movement as a whole - and to reach a proper understanding of the context in which these measures were taken, it was vital to obtain information on the situation prior to the military takeover.

41. The situation prior to the military takeover was described by a number of persons with whom the representative of the Director-General had discussions, including representatives of the Ministry of Foreign Affairs, the Ministry of Justice, one Minister of State, senior military personnel, the President of the Confederation of Turkish Trade Unions (TURK-IS), the General Secretary and other representatives of the Confederation of Turkish Employers' Organisations, the President of the Turkish Industrialists' and Businessmen's Association (TUSIAD), some members of the now suspended DISK organisation and other persons, both Turkish and non-Turkish. According to the representative of the Director-General, all of these interlocutors emphasised the gravity of the situation prior to the takeover by the Turkish armed forces of the government of the country on 12 September 1980. The military takeover had taken place, it was stated, as a result of the terror and anarchy which had been unleashed throughout the country, both in the towns and villages, by factions of all persuasions who were attempting to take advantage of a political situation of total confusion and apathy. As a result of anarchist and terrorist activities, compounded by the inertia of the State and the forces of order, Turkey, according to many, was facing a real threat of civil war.

42. According to some government representatives, the entire nation had experienced the effects of the chaos and anarchy which rendered indispensable the eventual intervention by the military authorities, and, in their view, it was the elimination of terror and the state of tranquillity that now prevailed in the country which largely accounted for the popularity enjoyed by the military regime. The limited application of martial law to some cities had not permitted the military authorities to take adequate measures to deal effectively with the problems, and it was only on 12 September 1980, when martial law was declared throughout the country, that steps could be taken to put an end to the terrorism which reigned everywhere. According to the Government, the state of anarchy was the result of acts committed by extremist left-wing groups that were associated with DISK and extremist right-wing groups belonging to another trade union organisation, MISK.

43. The workers' representatives told the mission of the terror and bloodshed that had preceded the military takeover and said that militant factions had threatened workers who refused to join their ranks and, through acts of violence, had caused widespread suffering. Representatives of DISK, while confirming that a state of anarchy existed prior to 12 September 1980, denied that their organisation had been responsible for the situation.

44. According to the employers, the problems prior to 12 September 1980 were mainly the result of a wide proliferation of trade union organisations, many of which were motivated by political ideologies and objectives which included the bringing about of a fundamental change in the structure of society. Another fundamental problem was the penetration of the Confederation of Progressive Trade Unions (DISK) by persons whose political objectives overshadowed the trade union objectives of that organisation. The economic bankruptcy of Turkey in 1980, inflation and the shortage of commodities had bred terrorism and anarchy in the minds of the people. The insufficiency of the political system at the time had caused the revolutionary elements - which included certain factions of the DISK - to overestimate their power, and the consequences of their actions had precipitated the military intervention.

II. Suspension of DISK, MISK and other organisations

45. The representative of the Director-General describes in his report the circumstances of the suspension by the National Security Council of the DISK and MISK organisations as well as a number of TURK-IS affiliated organisations on the grounds that they were allegedly involved in terrorist activities, or because the ideological aims and objectives of these organisations were considered to be incompatible with the 1961 Constitution or the Turkish Penal Code. While most TURK-IS affiliates had now been reopened, the DISK and MISK organisations remained

34. Regarding the conditions of life in the prisons, the Government stated that they were good in so far as material means permitted. As far as material comfort was concerned, it should be recalled that a good proportion of the population was unable at present to live in physical conditions better than those prevailing in the prisons.

35. According to the Government, the period of police custody, which was previously 90 days and had recently been reduced to 45 days, arose from the need to be able to terminate legal proceedings without having to resort to special jurisdictions. Consequently, its maintenance or reduction depended primarily on the development of needs and circumstances.

36. As regards the suspension of the right to strike and the limitation of collective bargaining, for the time being the Government had no observations to add to those it had made previously. It stated, however, that the Committee would of course be kept informed of any future developments in this connection.

37. As regards the loss of Turkish nationality, the Government stated that this question was governed by the provisions of the law on Turkish nationality. These provisions are applicable only to Turkish nationals abroad who, despite the notifications sent to them, refused to return to the country within the time-limits allowed them, in order to evade legal proceedings brought against them for acts incompatible with loyalty to the nation. The application of these provisions did not depend on a person's post or occupation but solely on the acts which he might have committed and for which he might account to an independent judicial authority; it was wrong to say that "trade unionists have been deprived of their nationality". This was particularly so since, under Turkish legislation, deprivation of nationality and loss of nationality were, as regards their scope, content and consequences, two entirely different legal concepts: only persons who were not native-born citizens might be deprived of their nationality.

38. In conclusion, the Government stated that it did not consider the Committee on Freedom of Association as a forum for confrontation but rather as a forum for co-operation. It appreciated the role played by the Committee in promoting and protecting certain principles. Although these principles had not yet become binding and universally applicable rules, it nevertheless endorsed them wholly and voluntarily. On the other hand, it hoped that the Committee would understand its position, considering that Turkey had been on the threshold of a civil war and was now going through a transitional period in which every effort was being made to correct past mistakes and lay the bases for the future. Everything that had happened in the country should be assessed in this context. It also considered that, while international trade union organisations might legitimately adopt a political attitude towards a government and act accordingly, each sovereign government, on the other hand, was free to decide what attention it should pay to attitudes of that kind.

E. The mission to Turkey

39. Following his mission to Turkey (12-22 July 1982), the Director-General's representative, Mr. Ian Lagergren, submitted to him a report on the various meetings he had had during his stay in the country. In his report, which is annexed hereto, the representative of the Director-General points out that every facility was granted during the mission, both by the civil and by the military authorities to enable him to meet all the persons who, he considered, might assist him in the accomplishment of his mission. The only exception - which the representative of the Director-General states is to be deeply regretted - was that authorisation to visit some of the detained DISK leaders or members who are presently standing trial in Istanbul was finally refused by the authorities.

I. The situation prior to 12 September 1980

40. As pointed out by the representative of the Director-General in his report, it was not for the mission to make an assessment of the political situation prior to 12 September 1980 nor of the events which led to the military intervention

V. The draft Constitution and the future labour legislation

51. Also in his report, the representative of the Director-General describes the discussions he had in connection with proposed new legislation concerning trade unions and, more particularly, the new draft Constitution which was published on the eve of the mission's departure from Turkey.

52. The Minister of Labour informed the mission that, in addition to the new Constitution it was evident that, whatever the terms of the Constitution, new labour laws would be promulgated to give effect, or add precision, where necessary, to its provisions. He added that, in order to correct certain difficulties that had arisen from the application of the existing labour legislation, work had already been done on possible new trade union laws based on many industrial relations seminars as well as on consultation with workers' and employers' organisations. According to the Minister, legislative proposals had been made to the National Security Council, but the Council would probably only consider promulgating specific labour legislation once the new Constitution had been adopted. Any new draft legislation, the Minister emphasised, would generally be in conformity with ILO principles.

53. On the question of new legislation, the President of TURK-IS told the mission that he would strongly support the idea that the ILO should be asked to comment on any draft proposals. TURK-IS, he added, had not been consulted about the draft labour legislation which had been submitted by the Minister of Labour to the National Security Council, and from the information which he had obtained about its content he would be strongly opposed to its adoption. More specifically, TURK-IS representatives told the mission that, to their knowledge, certain legislative amendments were being proposed which, in their view, constituted unreasonable restrictions on trade union rights. TURK-IS representatives were adamant that they would not support any legislation which contained such provisions which, in their view, were restrictive. ~~They would continue to struggle to secure the adoption of legislation that did not fall below the standards set by ILO Conventions on freedom of association.~~

54. According to the report of the representative of the Director-General, the employers were of the opinion that no legislation would be enacted without full consultation with employers and workers. They considered that the existing legislation was over-complex and bore little relation to current social problems. Something had to be done, they thought, to check the development of trade unionism based on political ideologies and to control trade union finances. The check-off system had led to corruption and mismanagement of money in the larger trade unions.

VI. The draft Constitution

55. The representative of the Director-General states in his report that, on 19 July 1982, the draft Constitution was formally presented to the Consultative Assembly and published. The report also sets out in detail the relevant provisions of the draft Constitution concerning the right to establish trade unions, trade union activities, the right to bargain collectively and the right to strike and lockout.

56. According to the representative of the Director-General, the initial reaction of TURK-IS to the published draft Constitution was one of strong opposition and that it was the intention of that organisation to mount a campaign in order to seek amendments to the draft either at the stage of debate in the Consultative Assembly or when it reached the National Security Council for adoption. The view of TURK-IS was that the draft Constitution itself contained the kind of restrictive provisions which, it was feared, would appear in the legislation to be promulgated after the adoption of the Constitution.

57. The representative of the Director-General reports that employer reaction to the draft Constitution was generally favourable although, in some circles, doubts had been expressed about the desirability of including in a Constitution detailed provisions concerning such matters as the check-off system, the right to lockout, etc. Reservations about the draft Constitution were also expressed by a certain number of academics in the fields of labour and constitutional law.

suspended and no action was envisaged for the removal of the measures of suspension. Meantime the property and assets of their organisations were being managed by trustees appointed by the labour courts.

III. Suspension of trade union activities

46. In his report the representative of the Director-General also describes the various legislative enactments and orders issued by the military authorities shortly following the military takeover which, in addition to suspending DISK, MISK and other organisations, also placed a ban on strikes and lockouts and effectively put an end to voluntary collective bargaining, leaving the adjustment and renewal of existing collective agreements to be determined by a Supreme Arbitration Board on which, in addition to two government representatives, the representative workers' and employers' organisations are represented.

47. As regards the general restrictions imposed on the exercise of trade union rights, the representatives of TURK-IS, the one remaining trade union organisation in existence, informed the mission that the activities of TURK-IS, apart from participation in the Supreme Arbitration Board, had been reduced to studying developments as regards the proposed new constitutional provisions and the draft labour legislation which is likely to be enacted after the new Constitution has been promulgated. This was not to say, however, that TURK-IS was totally unable to make its voice heard on social and labour matters in general. It was clear that TURK-IS has access to the Government to express its views on such matters as well as a wide measure of freedom as regards meetings and the ability to express, through the media, not only its opinions but also its criticism of government policy and action in the social and economic fields.

IV. The Supreme Arbitration Board

48. As indicated in the report of the representative of the Director-General, free collective bargaining has been replaced by a system whereby the Supreme Arbitration Board reviews and puts into force existing collective agreements on their expiry. The Minister of Labour, as well as one member of the Board itself, describing the situation that had led the military authorities to activate the Supreme Arbitration Board, emphasised that the suspension of collective bargaining was a temporary measure and that the new legislation that was now envisaged would provide the opportunity to establish a collective bargaining system which would resolve the difficulties experienced in the past. Meantime, workers were fully protected under existing collective agreements that were renewed by the Board and adjusted to take account of cost of living, inflation, etc. They were also guaranteed protection as a result of the presence on the Board of representatives of TURK-IS who, according to one member of the Board, were equally pressing in their demands for wage increases regardless of whether the collective agreements to be extended had been reached by TURK-IS or by DISK.

49. According to the representative of the Director-General, the representatives of TURK-IS were highly critical of the Government's action to suspend collective bargaining and to replace this by the Supreme Arbitration Board, which, they claimed, in awarding wage increases that did not keep pace with inflation, largely favoured the employers. The fact that TURK-IS was represented on the Board should not be interpreted as approval of the Board or of the system. It was TURK-IS's intention to fight for a speedy return to free collective bargaining and for the abolition of the Supreme Arbitration Board.

50. The employers, too, are described in the report of the Director-General's representative as being of the opinion that the Supreme Arbitration Board was of a temporary nature and as generally considering that a return to a system of free collective bargaining was desirable. According to the employers, however, they were convinced that the Board was performing its functions efficiently and effectively, ensuring at the same time fair rewards to workers and a reduced rate of inflation.

fair. As regards allegations that the accused had been subjected to torture all confirmed that such allegations had related to the early stages of the arrest and interrogation of the prisoners by the police. There had been no allegations of torture or other forms of ill-treatment by the military. In particular, the wife of the President of DISK, told the representative of the Director-General of her husband's allegations, made in court, that he had been subjected to torture by the police but that a formal complaint made by him was no longer on file.

64. The representative of the Director-General describes in his report the discussions he had with the Director of Penal Affairs of the Ministry of Justice on the question of alleged torture, and in particular, the allegations that had been made as regards Mr. Bastürk and Mrs. Oksan Yardimci, a legal adviser to DISK. The Director of Penal Affairs told the representative of the Director-General that, generally, a very serious view was taken in Turkey on torture. Torture, he said, was a crime punishable by heavy penalties and prosecutors were obliged to take action when cases were brought to their attention. He did not deny the existence of a number of cases of torture or ill-treatment but he stressed that investigations were made into each case and prosecution followed where necessary. The Director-General of Penal Affairs provided the mission with statistics showing the number of allegations of torture made, prosecutions, convictions, etc.

65. The representative of the Director-General reports that having received no satisfactory explanation regarding the examination of the allegations of torture that were made concerning Mr. Bastürk and Mrs. Yardimci, he requested the authorities to carry out a careful examination of these cases and take appropriate action in the event of the allegations being substantiated. The representative of the Director-General adds that he was given an assurance that detailed information would be communicated to the ILO concerning these matters.

66. In addition to this, however, the representative of the Director-General describes various meetings he had with certain military personnel as well as with personal friends of Mrs. Yardimci. He was informed that Mrs. Yardimci had been released, ~~although further investigations were continuing into other charges brought against her.~~ Her friends stated that, although she may have suffered some ill-treatment, her legs were not broken as had been alleged. Efforts made by the representative of the Director-General to make contact with Mrs. Yardimci were unsuccessful.

67. According to the report of the representative of the Director-General three members of the DISK who had previously been arrested and subsequently released informed the mission that they had suffered ill-treatment at the hands of the police during interrogation although there had been no question of such treatment following their transfer to military establishments. The ill-treatment they described consisted of blindfolding during lengthy periods of interrogation and the use of abusive language and indecent remarks about the prisoners or their families.

X. Other allegations

68. As regards allegations that certain persons had been stripped of their nationality, the Director-General of the Department of Penal Affairs explained to the mission that all cases were examined under the provisions of Turkish law on nationality. Where persons could not be found and where sentences had been pronounced by the courts in their absence they could be stripped of their nationality. This had been done, he said, not only in the case of trade unionists but of many others (including the nephew of the former Prime Minister Demirel).

69. The representative of the Director-General further states in his report that, when he informed the Chief Military Prosecutor that a formal allegation had been made that his predecessor, Prosecutor Takkeci, had told a Dutch lawyer, representing the World Confederation of Labour, that DISK lawyers would also be prosecuted since, by agreeing to defend the 52 members of that organisation, they could be assumed to share their ideological beliefs, the Prosecutor said such a remark, if it was made, was to be regretted and in any event was untrue. Lawyers were defending criminals all over the country in complete freedom. Like all citizens, however, they were not immune from criminal proceedings if they committed criminal acts, such as hiding terrorists in their homes, etc. Under article 18 of the Martial Law Administration Regulations of 1971, which applied in a state of war, as was the case at present, the number of defence counsel could be limited by the court.

VII. Questions concerning detained trade unionists

58. The representative of the Director-General points out in his report that in order to obtain as much information as possible concerning this fundamentally important aspect of the case he had requested that arrangements be made for interviews with representatives of the Ministry of Justice, the Military Prosecutor in the DISK trial in Istanbul and some of the lawyers who represented the 52 DISK leaders involved in that trial. In addition to these arrangements, all of which were made without difficulty either by the Government or by making contact directly with the persons concerned, the representative of the Director-General also met with some friends and members of the families of some of the DISK leaders who are standing trial, some members of DISK who had been arrested but who were later released, and with representatives of the Military Supreme Court of Appeal in Ankara.

59. In addition, the representative of the Director-General took a number of steps, which he describes in his report, in an attempt to obtain personal access to some of the 52 DISK leaders who were presently standing trial in Istanbul. The representative of the Director-General also states in his report that, in addition to addressing a formal written request to the Director of the Davutpasa prison in Istanbul where the 52 DISK leaders are being detained, he emphasised in all his discussions with the civil and military authorities, as well as with the workers' and employers' representatives, the importance that would be attached to the mission being able to meet with the detainees, or at least some of them.

60. Throughout the mission repeated requests were made by the representative of the Director-General to the authorities in order to obtain such access and, in addition, various representations were made to the Government by the President of TURK-IS to facilitate the granting of the necessary authorisation. Finally, as the representative of the Director-General describes in his report, official confirmation of the negative response to his request came from Professor Ilhan Öztürk, Minister of State without Portfolio, who explained at length that although the Government was fully aware of its obligations towards the ILO and wished to fulfil its responsibilities towards the Organisation, it had nevertheless decided that no exception could be made as regards access to the detainees. The Government, he said, felt that to grant authorisation to the ILO at the present time would create a precedent which would lead to many other bodies seeking similar treatment.

VIII. The DISK trial

61. The representative of the Director-General describes in his report the visit by the mission to the trial that is taking place in Istanbul of the 52 leaders of the DISK and the former Mayor of Istanbul, Mr. Ahmet İsvan, who is also charged with offences under the Turkish Penal Code. This visit also gave to the representative of the Director-General the opportunity to meet privately some of the defence lawyers involved in the case as well as certain members of the families of the accused, all of whom described the material conditions in which the accused were being held, their state of health and the possibilities of access to them.

62. As regards the actual court proceedings, the representative of the Director-General describes in his report the interrogation by the court of Mr. Fehmi Isiklar, the General Secretary of DISK who, since the commencement of the trial, was only the second witness to be heard after the DISK President, Mr. Bastürk. The other 50 witnesses would be heard in order of their hierarchical positions in DISK. The representative of the Director-General also mentions in his report how the manner in which the questioning of witnesses took place contributed to the slowness of the proceedings.

IX. Allegations of torture

63. According to the report of the representative of the Director-General all of the persons interviewed during the visit to the DISK trial confirmed that the detained trade unionists were in good physical condition and that their morale was

F. Further developments

1. Additional allegations by the WFTU

76. In a communication dated 8 October 1982 the World Federation of Trade Unions transmitted a list of the names of 20 trade unionists associated with the DISK who are in detention. In respect of 10 of these, the WFTU states, the death penalty has been requested, the other 10 being liable to terms of imprisonment ranging from 5 to 15 years. From the information supplied by the WFTU all of these persons are charged with having violated the Turkish Constitution and, according to the complainant, will be tried along with the other DISK leaders.

2. Additional information transmitted by the Government

77. On 25 October 1982 the Turkish authorities transmitted to the ILO documents relating to the allegations of torture or ill-treatment made by Mr. Bastürk and Mrs. Yardımcı.

78. On 28 October 1982 the Turkish authorities communicated to the ILO the text of the revised provisions of the draft Constitution which is to be submitted to national referendum on 7 November 1982.

79. By a communication dated 4 November 1982 the Government replies to the allegations made in the representation presented by the Norwegian Confederation of Trade Unions under article 24 of the Constitution. First, the Government states that under Turkish legislation there is no discrimination against agricultural workers as opposed to industrial workers. The Government supplies a list of 17 registered unions of agricultural, forestry and other workers. Furthermore, the Government points out that, as regards Convention No. 98, the legislation in Turkey ~~Law No. 274, article 19, which prohibits discrimination against agricultural workers~~ discrimination. In addition, article 17 of the same law protects the independence of workers' organisations against interference by employers or their organisations. The Government also points out that the right of association of workers is guaranteed by the courts, and that the regulation of working conditions by means of collective agreements is laid down in Law No. 275. Finally, the Government refers to the establishment of the Supreme Arbitration Board which, it states, is in full compliance with Convention No. 98.

G. Conclusions of the Committee

80. The Committee has examined with care the further allegations received since its last examination of this case in February 1982, including those contained in the representation made, by virtue of article 24 of the ILO Constitution, by the General Confederation of Trade Unions of Norway on 15 June 1982. It has also examined the Government's written responses to these allegations, all the information obtained by the representative appointed by the Director-General to carry out a direct contacts mission to Turkey and the information supplied by the Government following the completion of the mission.

81. In expressing its thanks to the representative of the Director-General for his detailed report the Committee would also like to express its appreciation to the Government of Turkey for its co-operation in accepting the Committee's requests that such a mission be carried out and for providing the facilities that were necessary to enable the representative of the Director-General to carry out his mission.

82. The Committee can only express its deep concern and regret, however, that the authorities, for reasons which the Committee finds difficult to accept, failed to accede to the requests repeatedly made by the representative of the Director-General to meet some of the 52 DISK leaders presently standing trial in Istanbul. It can only be regretted that, on this particularly important aspect of the case, the mission was thereby unable to obtain, directly from those concerned, important evidence on which the Committee might reach conclusions in the fullest knowledge of the facts.

70. The representative of the Director-General also describes in his report the evidence he was able to obtain concerning the incidents that took place at the Taris textile factory at Izmir in 1980 which led to a number of deaths (not only of workers but also of members of the security forces), injury and arrest of a large number of workers. Severe sentences of up to 24 years' imprisonment had been imposed on some of the 185 workers who were tried. In particular, the President of TURK-IS informed the mission that, as former President of the Textile Workers' Union, he was personally familiar with this matter which, he emphasised, had nothing to do with legitimate strike action. The problem had been caused by militants who were attempting to coerce the workers into joining their unions. Threats of violence were made against workers if they refused. Finally, fighting had broken out and the militants occupied the factory. It was the workers themselves who had called in the forces of order and the ensuing clashes had resulted in bloodshed and damage. On this question, the Deputy Chief Military Prosecutor of the Military Appeal Court in Ankara explained that, although several hundred people were involved in the clashes at the Taris factory, only 152 were actually sentenced by the local court, these sentences later being upheld by the Appeals Court. In a number of other cases relating to the same incidents further investigations were still being carried out to determine responsibility.

71. The representative of the Director-General states in his report that he raised with the military authorities two other matters which had been the subject of allegations: the arrest and torture of Mrs. Ilgi Varis and the sentencing to 5 years 6 months and 20 days' imprisonment of 14 members of the MADEN-IS union choir for singing the "Internationale". As regards Ilgi Varis, the Deputy Military Prosecutor of the Court of Appeal said that, as far as he knew, no written complaint had been received in this case. He promised, however, to look into the matter and inform the ILO of the results of his inquiry. As regards the 14 members of MADEN-IS, the Deputy Military Prosecutor, referring to the file on the case, informed the mission that 9 of the 14 had been found not guilty by the local court in Istanbul and only 5 had been found guilty and sentenced. In any event, he said, the charges had related not to the singing of the "Internationale" but to the dissemination of political propaganda at the congress held by the union in question, an act prohibited by the Penal Code.

72. Finally, in his report, the representative of the Director-General describes the meetings he had with various government representatives prior to the conclusion of his mission when he conveyed to them the impressions he had gained as a result of his inquiries. He also made certain suggestions which, he points out, were intended to facilitate the finding of solutions to the outstanding questions that are still under examination by the Committee and to expedite the communication of any information which still remained outstanding at the end of the mission.

73. First, in expressing his profound concern and regret that authorisation to meet with some of the 52 DISK leaders had been denied, the representative of the Director-General informed the authorities that he stood ready to return to Istanbul at any time prior to the November meeting of the Committee should the Government decide to grant authorisation for such a meeting.

74. In addition, as regards the DISK trial itself, the representative of the Director-General raised the question of the still outstanding plea for the death penalty and the alarming slowness of the procedures in court, expressing the hope that the Chief Military Prosecutor might now consider altering his plea to one for a lesser sentence, and that a system of compensation would be applied in cases where detained persons were eventually acquitted or given sentences for lesser periods than the actual amount of time they had spent in detention.

75. As regards the published draft Constitution and any future labour legislation which might follow its adoption, the representative of the Director-General states that he pointed out to the Minister of Labour that the draft Constitution contained provisions that clearly restricted the rights of workers to organise and bargain collectively, and that he encouraged the Minister to seek ILO assistance in preparing legislation that would ensure conformity with ILO standards.

sections of the Turkish Penal Code which concern offences against the security of the State and in respect of which the death penalty can be imposed. The Committee notes that this, and the many other trials that are taking place throughout the country, are being held under the martial law provisions and that martial law procedures are applied in the various tribunals that have been set up in the country. The Committee has also noted from the report of the representative of the Director-General the conditions in which the trial of the DISK leaders is taking place and in particular that the lawyers entrusted with their defence seem reasonably satisfied that access to the accused, while limited, is adequate.

89. The Committee can only note, however, with profound concern the fact that, after almost one year, the trial is still in its early stages with only a few of the 52 accused trade unionists having been questioned in court. In the view of the Committee the reasons for the slowness in the procedure, as described in the report of the representative of the Director-General, are inadmissible and the authorities should take urgent steps to ensure that the trial is brought to an end as rapidly as possible. The Committee has on many occasions emphasised the importance which it attaches to the principle of prompt and fair trial by an independent and impartial judiciary in all cases, including cases in which trade unionists are charged with political or criminal acts which the Government considers have no relation to their trade union functions.¹

90. The Committee also wishes to express the sincere hope that, in view of the fact that a climate of peace and tranquillity has now been restored in the country, measures of clemency will be taken as regards the 52 trade union leaders in question. The Committee is convinced that the release of those persons, or at least the abandonment of the outstanding plea for the death penalty, would contribute to reducing the tension that remains as a result of their continued detention.

III. Allegations of torture

91. As regards the allegations of torture or ill-treatment against detained trade unionists, the Committee observes from all the evidence adduced that torture or ill-treatment appears to have been limited to the early stages of arrest and interrogation by the police. Although none of the persons interviewed spoke of ill-treatment while in the custody of the military authorities, the Committee must nevertheless express its concern at the number of cases of torture that have been alleged and regarding which the military authorities state that those responsible are being pursued and prosecuted. The Committee would urge the Government to continue this action and to investigate carefully and promptly all such allegations made by persons arrested or detained.

92. As regards the allegations of torture that had been made by Mr. Bastürk, the Committee notes from documents transmitted by the Government in response to the request made by the representative of the Director-General, that, on 24 February 1981, General Necdet Uruğ, Commander of the 1st Army, sent a written order to the Military Prosecutor of Martial Law Command to conduct an inquiry into the allegations made by Mr. Bastürk of physical coercion during the period when he was held in custody prior to his arrest (10 October 1980 to 27 December 1980).

93. In another document dated 26 July 1982, signed by the Deputy Prosecutor of Martial Law, Istanbul, it is stated that a preliminary inquiry was conducted on 26 February 1981. The Deputy Prosecutor, in this document, states that the initial entrance examination of Mr. Bastürk showed that there were no signs or symptoms of physical coercion, his physical state being normal. In addition, there was no evidence of internal sickness. Furthermore, a medical examination was carried out on 3 March 1981 by the Chief of Haydarpasa Military Hospital, Doctor Colonel Nusret Özden, who was reminded of his oath before proceeding with the examination. This examination, the report on which was shown to and signed by Mr. Bastürk, revealed no external or internal pathological symptoms and that the general situation was normal. Mr. Bastürk signed this report without making any comment thereon. For these reasons, the Deputy Prosecutor decided that the allegations made were groundless and that there was no cause to investigate the matter further.

¹ See, for example, 147th Report, Cases Nos. 698 and 749 (Senegal), para. 85; Case No. 766 (Yemen), para. 361; and Case No. 774 (Central African Republic), para. 372.

83. The Committee would recall that it has been seized of a number of cases against Turkey since November 1980 following the receipt of several complaints containing particularly serious allegations of violations of human and trade union rights consequent upon the military takeover of 12 September 1980. These allegations concerned in particular the banning of two Turkish trade union confederations, the Confederation of Unions of Progressive or Revolutionary Workers (DISK) and the Confederation of Unions of Nationalist Workers (MISK), as well as certain TURK-IS affiliated organisations, the arrest and detention of trade unionists, the suspension of trade union activity, including the right to bargain collectively and the right to strike, and the freezing of the assets of the banned trade unions. The Committee proposes to examine each of these aspects of the cases in the light of all the information now at its disposal.

I. Suspension of DISK, MISK and other organisations

84. The Government has at no time contested the allegation that the Confederation of Unions of Progressive or Revolutionary Workers (DISK), the Confederation of Unions of Nationalist Workers (MISK) and some affiliated unions of the Confederation of Unions of Turkish Workers (TURK-IS) were suspended following the takeover by the military authorities on 12 September 1980. The Government, however, has consistently argued that the suspension of these organisations was justified because of the structural links that existed between these organisations and certain illegal clandestine organisations whose object was to overthrow the existing regime by force. These trade union organisations, according to the Government, had been infiltrated by the terrorist elements and anarchists who were responsible for the chaos and terror that prevailed in the country prior to 12 September 1980.

85. The property and assets of the suspended organisations were frozen and placed in the hands of trustees appointed by the courts. From the information gathered on the spot, it seems that, in spite of the suspension measures, the assets of these organisations have accumulated, and continue to accumulate, as a result of the uninterrupted payment, through the check-off system, of trade union contributions by the members of the unions in question.

86. As regards this aspect of the case the Committee would first point out that it fully appreciates the Government's arguments that the situation in Turkey prior to 12 September 1980 called for radical measures being taken to eliminate the terrorism and anarchy that prevailed throughout the country. The Committee, however, cannot accept that the situation, no matter how serious, justified the Government in suspending major trade union organisations thereby depriving many thousands of workers of the means through which to defend and promote their occupational interests. The Committee considers that it is essential that any suspension of workers' or employers' organisations should be carried out by the judicial authorities, which alone can guarantee the rights of defence. These principles, the Committee has pointed out, are equally applicable when such measures of suspension or dissolution are taken even during an emergency situation.¹

87. The Committee expresses the firm hope that the measures of suspension taken against the organisations in question will be lifted at an early date and that these organisations will be able to resume their normal trade union activities in full possession of their property and assets which were confiscated and placed in the hands of trustees.

II. The arrest and detention of trade unionists

88. The Committee has examined all the information contained in the documents before it and in the report of the representative of the Director-General concerning this aspect of the case, which concerns, in particular, the 52 trade union leaders of DISK who are standing trial in Istanbul. These trade unionists, whose trial commenced on 24 December 1981, are involved in charges under various

¹ See 131st Report, Case No. 683 (Ecuador), para. 200.

V. The new Constitution

100. As regards the new Constitution the Committee notes that this was adopted following a national referendum which took place on 7 November 1982. The Committee also notes that the new Constitution takes account of certain amendments which were introduced by the National Security Council following the discussion of the draft in the Consultative Assembly. As regards trade union rights, these amendments concern former article 55 of the draft (now article 51 of the Constitution) relating to the right to establish trade unions, and to which the following paragraphs have been added:

Para. 2. The submission of the necessary information and documents to the appropriate authority as stipulated in the law shall be sufficient for the establishment of trade unions and higher formations. Should such information and documents be incompatible with the law the appropriate authority shall apply to the court for the suspension of the activities, or the banning of the trade union or the higher formation in question.

Para. 6. The obtaining of an employment shall not be conditional upon the membership or non-membership of a trade union.

Para. 7. To be eligible for an executive position in a trade union or in a higher formation, at least ten years of actual work as a worker is required.

101. The Committee also notes that former article 56 (now article 52 of the Constitution) (concerning trade union activities) has been modified by deleting the stipulation that trade union dues shall be paid directly by the member and by adding that "... the modalities of payment of membership dues to the trade unions shall be regulated by law".

~~102. As regards collective bargaining (former article 57, now article 53 of the Constitution) the Committee notes that the paragraph which stipulated that "collective agreements shall not contain provisions contrary to, or designed to amend or abolish existing laws" is deleted.~~

103. The Committee also notes that in the section of the Constitution dealing with the right to strike and lockout (former article 58, now article 54 of the Constitution) the right to lockout has been deleted. The following paragraph has, however, been added (paragraph 1): "The rules for, procedures and scope of, as well as the exceptions to the exercise of the right to lockout, and the conditions necessary for resorting to this right, shall be established by law".

104. While noting with interest the introduction of these amendments the Committee would nevertheless make the following comments:

Article 51. The requirement of ten years of actual work to qualify for eligibility for trade union office is not in conformity with Article 3 of Convention No. 87 which provides that workers' and employers' organisations shall have the right to elect their representatives in full freedom.

2. Article 52. With regard to the total ban on political activities the Committee would point out, as it has done on a number of occasions¹ that if trade unions are prohibited in general terms from engaging in any political activities this may raise difficulties by reason of the fact that the interpretation given to the relevant provisions in practice may change at any moment and considerably restrict the possibility of action of the organisations. It would therefore seem that States should be able, without prohibiting in general terms political activities of occupational organisations, to entrust to the judicial authorities the task of repressing abuses which might, in certain cases, be committed by organisations, which had lost sight of the fact that their fundamental objective should be the economic and social advancement of their members.

3. Article 53. As regards the right to strike the Committee notes that, while this right is guaranteed by the Constitution, its exercise is subject to

¹ See, for example, 143rd Report, Case No. 748 (Brazil), para. 98; 149th Report, Case No. 709 (Mauritius), para. 98.

94. A further document transmitted by the Turkish authorities, and signed by General Haydar Saltik, another army commander, dated 29 July 1982, contains the response of General Saltik to the above decision. In this response the General points out that, although Mr. Basturk could not supply concrete information concerning the persons who, he alleged, tortured him by blindfolding him, dealing him blows to the head and kidneys and insulting him and his family, the inquiry should nevertheless continue in order to determine the accuracy of his allegations. The General instructs that the written complaint of Mr. Basturk, submitted to the Military Court No. 3, should be requested from this court and examined, and the officials assigned to interrogate him, as well as the personnel responsible for the security of the complainant, identified and questioned concerning the allegations. The General rejects and annuls the decision that no grounds exist to continue the investigation since, in his view, the medical reports alone are insufficient to enable conclusions to be reached.

95. The Committee also notes that, as regards Mrs. Yardinci whose leg was said to have been broken as a result of torture, the authorities submit a medical report, dated 13 April 1982, issued by the Haydarpasa Military Hospital, which indicates that, following complaints concerning injuries to the head and nose and her general psychological condition, no signs of force or coercion were found. A psychiatric examination revealed slight neurosis for which medication was prescribed. The document adds that, in view of the medical report, the Military Prosecutor of the Martial Law Command instituted an inquiry on 22 April 1982.

96. The Committee takes note of this information and requests the Government to keep it informed of the results of the investigations into both cases.

IV. Suspension of trade union activity

97. From all the information at its disposal the Committee can only note with great concern that trade union activity ceased almost totally in Turkey with the introduction of martial law almost two years ago. It also notes with concern that, although the Government has announced a programme for a full return to democracy in the near future, commencing with the promulgation of the new Constitution, trade union activities are nevertheless likely to be severely limited. For example, the Committee has noted that the draft Constitution itself contains provisions imposing serious restrictions on the right to strike, the preservation of the Supreme Arbitration Board and placing a total ban on trade union links with political parties.

98. The only union not to have been suspended (with the exception of certain of its affiliates) TURK-IS, which represents the majority of workers in Turkey, has continued to function within the limits imposed by martial law, but without the right to strike or bargain collectively. Apart from being able to make its opinions known on social and economic matters through its publications, public statements and access to the Government, its most important role in the labour field has probably been its participation in the Supreme Arbitration Board which renews and adjusts collective agreements that have reached expiry.

99. The Committee would recall that the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified by Turkey, calls upon governments to adopt measures to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers and employers' organisations and workers' organisations. The Committee would also emphasise that the right to strike is one of the essential means through which workers and their organisations may promote and defend their occupational interests. In its previous examination of this case¹ the Committee stressed that measures restricting the free exercise of trade union rights, in particular the right to strike and to bargain collectively, should be limited in time and in scope to the immediate period of emergency. It would, accordingly, urge the Government to take rapid steps to lift all the measures imposed following the declaration of martial law in the country and which led not only to the suspension of various trade union organisations but which resulted in the suspension of practically all trade union activity.

¹ See 214th Report, para. 571.

Government to transmit its observations on the 20 persons associated with the DISK and named by the WFTU in respect of whom the death sentence or long terms of imprisonment have allegedly been requested.

- (f) The Committee expresses its grave concern at the number of cases of torture that have been alleged. The Committee urges the Government to continue to pursue and prosecute those responsible and to investigate carefully and promptly all such allegations made by persons arrested or detained. In particular the Committee requests the Government to keep it informed of the results of the inquiries in the cases of alleged torture of Mr. A. Bastürk and Mrs. Yardimci, respectively President and Adviser of DISK.
- (g) The Committee notes with great concern that, since the introduction of martial law, practically all trade union activity has ceased in Turkey. Recalling in particular the principles contained in the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified by Turkey, and the principle that the right to strike is one of the essential means through which workers and their organisations may promote and defend their occupational interests, the Committee urges the Government to take rapid steps to lift all the measures imposed following the declaration of martial law.
- (h) As regards the new Constitution the Committee expresses its concern that this contains provisions that are not in conformity with ILO standards and principles on freedom of association. It requests the Government to indicate the measures it intends to take to ensure full compliance with these standards and principles.
- (i) The Committee would remind the Government that the ILO remains at the disposal of all the parties concerned for any assistance it might contribute to the preparation of future labour legislation, with a view to ensuring a situation that is in conformity with ILO standards and principles in the field of freedom of association.
- (j) The Committee requests the Government to keep it informed of further developments in the situation and, in particular, of any measures, legislative or otherwise, that might be taken to restore trade union rights in Turkey. It hopes that any future legislation will be prepared in full consultation with the representative workers' and employers' organisations.

Geneva, 12 November 1982.

Roberto Ago,
Chairman.

POINTS FOR DECISION:

Paragraph 4;
" 107.

important restrictions. For example, solidarity strikes, general strikes, go-slow action, action aimed at the reduction of production and strikes in small-scale enterprises employing fewer than ten persons are all prohibited. The Committee also notes that the procedures for, and the conditions under which the right to strike may be exercised will be fixed by law. In this connection, the Committee wishes to recall the principle that the right to strike is one of the essential means through which workers and their organisations may promote and defend their occupational interests.

105. More generally, as regards the new Constitution the Committee can only express its concern that this contains provisions that are not in conformity with ILO standards and principles on freedom of association. It requests the Government to indicate the measures it intends to take to ensure full compliance with these standards and principles. The Committee would remind the Government that the ILO remains at its disposal to extend to it, as well as to the various organisations of workers and employers, any assistance which it might contribute to the preparation of future legislation with a view to ensuring a situation that is in conformity with the principles and standards adopted by the ILO in the field of freedom of association.

106. The Committee requests the Government to keep it informed of further developments in the situation and, in particular, of any measures, legislative or otherwise, that might be taken to restore trade union rights in Turkey. It hopes that any future legislation will be prepared in full consultation with the representative workers' and employers' organisations.

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Recommendations of the Committee

107. In these circumstances, the Committee recommends the Governing Body to approve the present interim report and, in particular, the following conclusions:

- (a) The Committee expresses its appreciation to the Government of Turkey for its co-operation in accepting a visit by the representative of the Director-General and for providing the necessary facilities to enable the representative to carry out his mission.
- (b) The Committee, however, expresses its deep concern and regret that the authorities failed, for reasons which the Committee finds difficult to accept, to permit access, by the representative of the Director-General, to some of the 52 leaders of DISK who are presently standing trial in Istanbul.
- (c) As regards the suspension by the authorities of the Confederation of Progressive or Revolutionary Workers (DISK), the Confederation of Unions of Nationalist Workers (MISK) and some affiliated unions of the Confederation of Turkish Workers (TUFK-IS), the Committee considers that it is essential, even during an emergency situation, that any suspension of workers' or employers' organisations should be carried out by the judicial authorities, which alone can guarantee the rights of defence.
- (d) The Committee expresses the firm hope that the measures of suspension will be lifted at an early date and that the organisations concerned will be able to assume their normal trade union activities in full possession of their property and assets which were confiscated and placed in the hands of trustees.
- (e) As regards the DISK trial, the Committee notes with profound concern that, after almost one year, this trial is still in its early stages. The Committee urges the Government to take steps to ensure that the trial is brought to an end as rapidly as possible. It considers that measures of clemency, such as the release of the persons concerned, or at least the abandonment of the plea for the death penalty, would contribute to reducing the tension that remains as a result of their continued detention. The Committee also requests the

8. The arrangements having thus been made, I carried out the mission - which included visits both to Ankara and to Istanbul - from 12 to 22 July 1982. Throughout the mission I was accompanied by Mr. William R. Simpson, Chief of the Freedom of Association Branch of the International Labour Standards Department of the ILO, and by Mr. Ruchan Isik, former Professor of Labour Law of the University of Ankara, presently attached to the ILO area office in Ankara. Where necessary, interpretation services were assured by Mr. Toker Dereli, of the Faculty of Economics, University of Istanbul, who had been engaged for that purpose by the ILO Office in Ankara.

9. During the mission every facility was granted, both by the civil and by the military authorities to enable me to meet all the persons who, I considered, might assist me in the accomplishment of my mission. The only exception - which is to be deeply regretted - was that authorisation to visit some of the detained DISK leaders or members who are presently standing trial in Istanbul was finally refused by the authorities. The circumstances of such refusal will be described in greater detail later in this report.

II. The situation prior to 12 September 1980

10. It was not, of course, for the mission to make an assessment of the political situation prior to 12 September 1980 nor of the events which led to the military intervention that took place on that date. It was obvious, however, that to enable the Committee on Freedom of Association to make as objective an evaluation as possible of the measures taken by the military authorities following their intervention - measures which affected the trade union movement as a whole - and to reach a proper understanding of the context in which these measures were taken, it was vital to obtain information on the situation prior to the military takeover.

11. In general, throughout the mission, all my interlocutors were at pains to emphasise the gravity of the situation in Turkey prior to the takeover, by the Turkish armed forces, of the government of the country on 12 September 1980. This military takeover occurred, it was stated, as a result of the terror and anarchy which had been unleashed throughout the country, both in the towns and villages, by factions of all persuasions who were attempting to take advantage of a political situation of total confusion and apathy. As a result of anarchist and terrorist activities, compounded by the inertia of the State and the forces of order, Turkey, according to many, was facing a real threat of civil war. From all the information I heard from representatives of all the social partners as well as from ordinary citizens (both Turkish and non-Turkish) with whom I came into contact, it was evident that few people had escaped the direct or indirect consequences of the serious disturbances that preceded the military takeover.

12. The Ministry of Foreign Affairs, which was largely responsible for organising the programme of the mission, had included in it a number of documentary films, taken at the time by the Turkish Television Authority in Ankara, which illustrated the degree and extent of the violence and anarchy that prevailed throughout the country prior to September 1980. According to the representatives of that Ministry the entire nation had experienced the effects of the disturbances which rendered indispensable the eventual intervention by the military authorities. It was the elimination of terror and the state of tranquillity that now prevailed in the country that largely accounted for the popularity enjoyed by the military regime.

13. The Deputy Director of Penal Affairs of the Ministry of Justice also spoke of the chaos and terrorism which reached a peak in September 1980 with some 25-30 people being killed every day. It was this, as well as the total breakdown in the parliamentary system, he said, that had caused the military to intervene.

14. The terrorism and bloodshed before September 1980 was also described by Mr. Sevkettin Yilmaz, the recently elected President of the Confederation of Turkish Workers' Trade Unions (TURK-IS), who told the mission that militant factions had

ANNEX

REPORT

on

Direct Contacts Mission to Turkey

by

Ian Lagergren,
Chief of the International
Labour Standards Department

I. INTRODUCTION

1. The mission described in this report was undertaken within the context of the procedures for the examination of the complaints of alleged infringement of trade union rights submitted by the World Confederation of Labour, the World Federation of Trade Unions, the International Confederation of Free Trade Unions and a number of other trade union organisations against the Government of Turkey (Cases Nos. 997, 999 and 1029).

2. The Governing Body Committee on Freedom of Association had already examined the above-mentioned cases on a number of occasions, the most recent examination having taken place in February 1982 when the Committee submitted an interim report to the Governing Body¹ in which, inter alia, it urged the Government to give its consent as soon as possible so that a representative of the Director-General might carry out a direct contacts mission to Turkey.

3. Since February 1982 a number of complainant organisations submitted further information or additional allegations in connection with their complaints.

4. For its part, the Government transmitted certain further observations in a communication dated 13 April 1982, and, in a later communication dated 7 May 1982, in addition to supplying further information in response to the allegations made, the Government stated that it was prepared to accept an on-the-spot visit by a representative of the Director-General in order to examine the various issues raised in the cases before the Committee on Freedom of Association.

5. In addition to the complaints mentioned above a representation, under article 24 of the ILO Constitution, was presented during the 68th (1982) Session of the International Labour Conference by the General Confederation of Norwegian Trade Unions in Norway alleging the non-observance by Turkey of the Right of Association (Agriculture) Convention, 1921 (No. 11), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). At its 220th Session (May-June 1982) the Governing Body decided that the representation was receivable and, in accordance with article 3, paragraph 2 of its Standing Orders, referred the representation to the Committee on Freedom of Association for examination in accordance with articles 24 and 25 of the Constitution.

6. In response to the communication from the Government of Turkey dated 7 May 1982 the Director-General informed the Government, in a letter dated 25 May 1982, that he had designated me as his representative to carry out the mission.

7. Following consultations with the Turkish Permanent Mission in Geneva arrangements were made for the mission to Turkey to be carried out from 12 to 22 July 1982, and prior indications were given in writing to the Turkish authorities that the mission would wish to meet, among others, the Ministers of Labour and Justice, the Chief Prosecutor and the defence lawyers representing the trade union leaders of the DISK organisation, representatives of workers' and employers' organisations and a certain number of those persons, who, according to the complainants, were being held in detention.

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¹ See 214th Report, paras. 541-574, approved by the Governing Body at its 219th Session (March 1982).

threatened workers who refused to join their ranks and, through acts of violence, had caused widespread damage and suffering particularly in the textile industry with which Mr. Yilmaz, a former trade union leader in that industry, was intimately familiar.

15. As for the employers, the mission was informed by Mr. Ibrahimoglu, General Secretary of the Confederation of Turkish Employers' Unions (TISK), of the disastrous effects on the Turkish economy in 1980 as a result of the terrorism and subversion which affected the factories and other workplaces throughout the country. The relatively prosperous period between 1970 and 1976 had been followed, he said, by a period in which there was a large proliferation of trade union organisations many of which were motivated by political ideologies and objectives which included the bringing about of a fundamental change in the structure of society. According to Mr. Ibrahimoglu, one of the main problems was the penetration of the Confederation of Progressive Trade Unions (DISK) by persons whose political objectives overshadowed the trade union objectives of the organisation. DISK, he said, which was particularly active in the private sector, had been a well organised trade union which had become manipulated by subversive elements for whom exaggerated wage claims, wildcat strikes, boycotts and violence were common weapons to be used for the achievement of its political ends. TURK-IS, on the other hand, was, by and large, a more moderate, responsible organisation and devoid of the political motivations for which DISK had become known.

16. Some members of the now suspended DISK organisation with whom I spoke confirmed that a state of anarchy had prevailed prior to 12 September 1980 although they denied that their organisation had been responsible for the situation. On the contrary, they said, DISK had been criticised by the militant groups for not being more highly motivated politically and for not forming a political party. They added that during strikes, for example, DISK had often to seek police protection from these militant groups.

17. The President of the management board of the Confederation of Turkish Employers' Unions (TISK), Mr. Halit Merin, also spoke of the difficulties he had personally experienced when faced with refusals by DISK to negotiate. Political strikes, he said, were numerous, of long duration and practically always accompanied by violence. His own home, he said, had been bombed on several occasions and serious damage caused at his plant.

18. The inevitability of a military intervention in September 1980 had been foreseen by the Turkish Industrialist and Business Men's Association (TUSIAD), whose President, Mr. Ali Koçman, told the mission that the economic bankruptcy of Turkey in 1980, inflation and the shortage of commodities had bred terrorism and anarchy in the minds of the people. The insufficiency of the political system at the time had caused the revolutionary elements - which, in his view, included certain factions of the DISK - to overestimate their power, and the consequences of their actions had precipitated the military intervention.

19. A number of senior military personnel with whom I spoke also described the chaos, the killings and damage to property prior to 12 September 1980 and of their inability to control the situation. The limited application of martial law to some cities, they said, did not permit the military authorities to take adequate measures to deal effectively with the problems, and it was only on 12 September 1980, when martial law was declared throughout the country, that steps could be taken to put an end to the terrorism which reigned everywhere.

20. Describing the measures that had been taken on 12 September 1980, Professor İlhan Öztrak, Minister of State, affirmed that these had not been in contradiction with democracy. Never again, he said, would the Government permit a return to the pre-September 1980 situation in which democratic rights were trampled underfoot and the very independence of Turkey endangered. The Minister referred to the killing and extensive damage to property caused by extremist left-wing groups belonging to DISK and extremist right-wing groups belonging to another trade union organisation (MISK) and to the fact that every May Day demonstration over the past few years had ended in deaths and bloodshed. In 1977, for example, 34 people had been killed and 300 wounded in Istanbul, and in 1978, he said, the security forces had found 10,000 machine-made clubs that had been distributed amongst the demonstrators. DISK, he said, which wanted an ideologically-based trade unionism, bore a large share of the responsibility for these acts. The Minister also supplied the mission with information concerning certain armed revolutionary organisations that had been dismantled by the military forces.

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21. The principal task of the mission was to examine, and obtain information on, the various outstanding allegations of which the Committee has been seized since the complaints were presented. These concerned generally the suspension of DISK and MISK, as well as other trade union organisations, the over-all restrictions imposed on trade union activity, including the suppression of the right to strike and to bargain collectively, torture and ill-treatment and the arrest, detention and trial of 52 trade union leaders and members of DISK.

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III. Suspension of DISK, MISK and other organisations

22. One of the first acts of the military regime after the takeover on 12 September 1980 was to suspend by decree the DISK and MISK organisations and all their affiliates¹ as well as a number of other organisations, including certain organisations affiliated to TURK-IS. TURK-IS itself was not suspended. The reason for these suspensions was the conviction of the military that these organisations, or their leadership, had been directly or indirectly involved in terrorist activities or that the ideological aims and objectives of these organisations were incompatible with certain provisions of the Constitution of 1961 and the Turkish Penal Code. According to the TURK-IS leaders whom I met, the measures of suspension that had been applied to certain of its affiliates had, in the majority of cases, been lifted and very few affiliated organisations of the Confederation remained suspended. Questioned about the possible justification for the suspension of some of their affiliates the TURK-IS leaders said that there had been a tendency on the part of some martial law commanders to suspend or close down trade unions in those parts of the country where terrorist activities had been particularly serious. Some leaders of affiliated organisations of TURK-IS had even been arrested for violation of existing laws. There were cases where, following the intervention of TURK-IS, branches that had been closed were allowed to reopen only hours after being closed, whereas in other cases the process of having them reopened required much more time.

23. The Minister of Labour pointed out that the organisations in question had not been suspended by administrative authority but by legal decree of the National Security Council, by virtue of the legislative powers vested in it. He added that the bank accounts and assets of these organisations had been frozen and were being managed by groups of trustees appointed by the provincial labour courts for that purpose. Ever since the measures of suspension had been applied all trade union contributions had been collected and deposited in the accounts of the suspended unions. The Act concerning the assignment of trustees to the suspended trade unions, federations and confederations (Act No. 2316 of 10 October 1980, Official Gazette No. 17132 of 11 October 1980) provided that one or three trustees would be assigned, by decision of the provincial labour courts, to each of the suspended organisations and that these trustees would take measures, in accordance with the rules and statutes of the organisations concerned, to protect the financial interests and property of such organisations.

24. Mr. Yildirim Türkmen, Director-General for criminal affairs of the Ministry of Justice, informed the mission that no judicial procedures were under way for the removal of the measures of suspension imposed on the DISK and MISK organisations. In normal times, he said, such measures would be reviewed by the labour courts but the decree of the National Security Council suspending these organisations would remain in force until the Council itself decided otherwise.

¹ Statement of the National Security Council, No. 7 of 12 Sep. 1980, published in Official Gazette No. 17103, as incorporated in Decree No. 3 of 14 Sep. 1980 (Official Gazette No. 17105).

29. According to the Minister, the suspension of collective bargaining was a temporary measure that had been taken by the military authorities in the exceptional circumstances that prevailed in Turkey in September 1980. It was "unthinkable", he said, that there should not be an early return to a system in which collective agreements were freely negotiated. The technical problems, however, to which the previous legislation had given rise would have to be solved and the new legislation that was envisaged following the adoption of the new Constitution would provide the opportunity to establish a collective bargaining system which would resolve the difficulties experienced in the past.

30. The suspension of collective bargaining and the suspension of a number of trade unions, continued the Minister, necessitated appropriate steps being taken to protect the interests of the workforce and it was for this reason that the Supreme Arbitration Board was given powers to extend collective agreements reaching expiry and award any necessary wage increases that were considered appropriate. In this manner all workers who were members of the union that had originally signed the collective agreement, as well as all non-members who paid the solidarity contribution under the 1963 Act, were covered by the extended agreement. In the view of the Minister, since the original terms of the negotiated agreement were largely preserved, except for the elimination by the Board of clauses that might be contrary to public order or the integrity of the State, the system could not be described as "compulsory arbitration", but rather one in which freely negotiated terms and conditions of work were maintained by the Board and in which fair wage increases were awarded. Some 2,600 collective agreements covering more than 1,500 enterprises and more than 1 million workers had thus been examined and extended by the Supreme Arbitration Board since September 1980. In its detailed examination of each case, the Board was assisted by 120 reporters. Protection was also afforded to individual workers by the prohibition against dismissal during the period of recession, although for economic reasons there could be collective dismissals, provided the Ministry of Labour was satisfied that these were fully justified. In such cases the employer makes a formal request to the Director-General of the Department of Labour, who initiates an inquiry into the circumstances by a tripartite committee. Decisions taken by the Ministry authorising collective dismissals were accompanied by the payment of indemnities for workers thus deprived of their employment.

31. A member of the Supreme Arbitration Board, Dr. Sefa Reisoglu, with whom I met, described the Board's activities in terms similar to those used by the Minister of Labour. In reply to one of my questions, he added that the representatives of TURK-IS on the Board were equally pressing in their demands for wage increases, regardless of whether the collective agreements to be extended had been reached with TURK-IS or with DISK.

32. The representatives of TURK-IS were highly critical of the Government's action to suspend collective bargaining and to replace this by the Supreme Arbitration Board, which, they claimed, in awarding wage increases that did not keep pace with inflation, largely favoured the employers. The President, Mr. Yilmaz, emphasised that the fact that TURK-IS was represented on the Board should not be interpreted as approval of the Board or of the system. He added that, since his election as President (some two months previously) he had been criticising the awards of the Board and had even threatened to withdraw his representatives from it. The workers, he said, had gained many rights and advantages over the past 20 years, and it was TURK-IS intention to fight for a speedy return to free collective bargaining and the abolition of the Supreme Arbitration Board.

33. Concern over the restrictions on trade union activities and the suppression of collective bargaining was also expressed by Mr. Halil Iunc, a former President of TURK-IS, who added, however, that these limitations reflected the anti-labour atmosphere in the country. He was reasonably confident that the controls would be of a temporary character and that the Supreme Arbitration Board would be replaced by a system of free bargaining.

34. The General Secretary of the Confederation of Turkish Employers' Unions, Mr. R. Ibrahimoglu, told the mission that the Supreme Arbitration Board had been activated to put some order into the chaos that reigned in the area of salaries and conditions of work. The composition of the Board was not new and the employers' and workers' representatives played an active role in assisting the Board to reach fair and reasonable conclusions in the granting of awards. Mr. Ibrahimoglu added, however, that the functions performed by the Board would be only for a temporary period, and he expressed the hope that, in the longer term, there would be a return

IV. Suspension of trade union activities

25. In a statement issued by the National Security Council (No. 15 of 14 September 1980, Official Gazette No. 17105), incorporated in Decree No. 3 of 14 September 1980, all strikes and lockouts were prohibited indefinitely, and by virtue of Martial Law No. 1402, as amended by Act No. 2301 of 19 September 1980 (Official Gazette No. 17112 of 21 September 1980), the martial law commanders were authorised to suspend all kinds of trade union activities or subject to their prior approval, to permit certain trade union activities. Act No. 2364, of 24 December 1980 (Official Gazette No. 17203 of 27 December 1980), effectively put an end to voluntary collective bargaining and authorised the Supreme Arbitration Board to renew and adjust existing collective agreements on their expiry. The composition of the Supreme Arbitration Board is based on the provisions of the Collective Agreements, Strikes and Lockouts Act (No. 275) of 1963, viz. the Head of the Labour Division of the Court of Cassation (President), two representatives appointed by the Government, two appointed by each of the most representative workers' and employers' organisations, the Chief of the Social Planning Branch of the State Planning Department, and the Director-General of the Ministry of Labour.

26. As regards the general restrictions imposed on the exercise of trade union activities, it is important to keep in mind that TURK-IS is the one remaining trade union organisation in existence. It was, accordingly, to the representatives of this organisation that I turned for information as to how these restrictions affected this organisation in practice. Clearly, with the abolition of the right to negotiate collective agreements and the right to strike, the activities of TURK-IS, apart from participation in the Supreme Arbitration Board, have been reduced to studying developments as regards the proposed new constitutional provisions and the draft labour legislation which is likely to be enacted after the new Constitution has been promulgated. This is not to say, however, that TURK-IS is totally unable to make its voice heard on social and labour matters in general. It is clear that TURK-IS has access to the Government to express its views on such matters as well as a wide measure of freedom as regards meetings and the ability to express, through the media, not only its opinions but also its criticism of government policy and action in the social field. One example of this was that, during the mission - on 15 July 1982 - President Yilmaz of TURK-IS had a meeting with the Prime Minister to discuss questions concerning severance pay, the minimum wage, migrant workers and the closure of certain factories. Mr. Yilmaz told me that another meeting with the Prime Minister was scheduled for 27 July. He also emphasised the role played by TURK-IS in informing not only its members but also the general public of the views of the organisation. This, he said, was ensured by weekly statements in the press and the use of the media. The reaction of TURK-IS to the announcement and publication of the new draft Constitution is described later in this report.¹

V. The Supreme Arbitration Board

27. As indicated above, free collective bargaining has been replaced by a system whereby the Supreme Arbitration Board reviews and puts into force existing collective agreements on their expiry.

28. The Minister of Labour, explaining the background which resulted in the suppression of collective bargaining, said that the guarantees laid down in the 1963 (Act No. 275) legislation on collective bargaining had been seriously abused in the pre-1980 period, resulting in intensive union rivalry and sometimes fraudulent practices in order to acquire legal recognition for collective bargaining purposes. Under this legislation the sole bargaining agent rights are granted to the union representing the majority of workers in an undertaking or industry. Complications, however, arose because of a tendency for workers to become members, not of one but of several unions, thus making it virtually impossible in many cases to determine the most representative union with any degree of precision. In addition to inter-union rivalry, there was intense industrial conflict, especially in the later 1970s, with protracted and often illegal strikes. The economy, said the Minister, could not bear the burden of the exaggerated wage demands made by the workers and in the months from January to September 1980 there were no fewer than 222 strikes (compared with 176 for the whole of 1979).

¹ See paras. 46 to 48 below.

to a system of free collective bargaining. He was convinced, nevertheless, that the Board was performing well, given the enormous task entrusted to it, and that wage increases, which by and large met increases in inflation, were being awarded. The previous uncontrolled escalation of wages was now being properly controlled by the Board, thereby assuring a systematic wages policy which did not result in an aggravation in inflation. The present system could, he said, be considered an "employers' paradise" with no right to strike and wages and other conditions of work being regulated by the Supreme Arbitration Board. But there had to be, he emphasised, a period in which order was restored in the economy so that eventually there could be a transfer to an economic system that was liberal rather than state-controlled. He was certain that social life in Turkey would return to normal following the promulgation of the new legislation and that the Government would respect the timetable it had set for a return to democratic rule. He was also confident that no legislation in the social field would be promulgated without prior consultation with workers and employers.

35. Representatives of the management board of the Confederation of Turkish Employers' Unions (TISK) stated that they were not entirely satisfied with the Supreme Arbitration Board, although they were convinced that it was performing its functions efficiently and effectively, ensuring at the same time fair rewards to workers and contributing to an increase in production. The representatives of TISK told the mission that they were sure that, in time, the Board would disappear and be replaced by a free collective bargaining system.

VI. The draft Constitution and the future labour legislation

36. Although the complaints in the present case did not contain any allegations or information concerning the future of Turkish labour legislation in so far as this relates to the free exercise of trade union rights - nor would it have been possible for them to do so - it is nevertheless relevant to describe certain important events which took place in Turkey during the course of the mission and which will undoubtedly have a profound effect on the exercise of trade union rights in future years.

37. By virtue of the Law on the Constitutional Order, the National Security Council gave itself full power to rewrite the Turkish Constitution of 1961. Accordingly, a drafting Committee consisting of 15 members was appointed by the Consultative Assembly to prepare a new Constitution, and during the course of the mission the new draft Constitution was published. The drafting Committee had been composed of nine university professors, two former judges (of the Appeal Court and the Constitutional Court), two former generals, one agricultural engineer, and the General Secretary of the Confederation of Turkish Employers' Unions.

38. Just prior to the publication of the draft Constitution I had the opportunity to meet the Vice-Chairman of the drafting Committee, Professor Feyyaz Gölcüklü, who is also a judge of the European Court of Human Rights, who explained that the draft Constitution, once published, would be examined in detail by the Consultative Assembly before being submitted to the National Security Council, probably in October 1982. It would then be subject to a national referendum, which would take place in early November.

39. When asked whether the new Constitution would modify substantially the right to freedom of association as guaranteed by articles 46 and 47 of the Constitution of 1961, Professor Gölcüklü replied that, as far as trade union rights were concerned, the broad lines of the 1961 Constitution would be maintained. It had been recognised that the right to organise was a fundamental right but, in the past, this right, and the accompanying right to strike, had been subject to abuse for political ends. There had been much discussion in the Committee concerning ways to minimise the effects of political and solidarity strikes which had been so detrimental, both politically and economically, to the country. There had also been much concern that the workers should not be deprived of these rights, but at the same time they should be encouraged to use them both in their own interests and in the economic interests of Turkey.

40. In addition to the new Constitution it was evident that, whatever the terms of the Constitution, new labour laws would be promulgated to give effect, or

add precision, where necessary, to its provisions. The Minister of Labour informed the mission that, in order to correct certain difficulties that had arisen from the application of the existing labour legislation, work had already been done on possible new trade union laws based on many industrial relations seminars as well as on consultation with workers' and employers' organisations. According to the Minister, legislative proposals had been made to the National Security Council, but the Council would probably only consider promulgating specific labour legislation once the new Constitution had been adopted. Any new draft legislation, the Minister emphasised, would generally be in conformity with ILO principles. When I suggested to the Minister that it would be appropriate to send to the ILC any new draft legislation for comments on its compatibility with the Conventions, the Minister replied that ILO principles were well known to Turkish labour lawyers and conformity with them would, as far as possible, be ensured.

41. On the question of the new legislation, the President of TURK-IS, Mr. Yilmaz, told the mission that he would strongly support the idea that the ILO should be asked to comment on any draft proposals, but it was unlikely, he said, that his opinion would be sought on the matter. TURK-IS, he added, had not been consulted about the draft labour legislation which had been submitted by the Minister of Labour to the National Security Council, and from the information which he had obtained about its content he would be strongly opposed to its adoption. More specifically, TURK-IS representatives told the mission that, to their knowledge, the following legislative amendments were being proposed which, in their view, constituted unreasonable restrictions on trade union rights:

A. An Associations Act would be promulgated:

- requiring that legal personality can only be acquired after examination by the authorities of the statutes and bye-laws of the association;
- requiring the auditing of the accounts of associations in every province every ~~three months by a board of auditors~~;
- banning all political activities;
- providing for the suspension of associations by administrative authority;
- subjecting international affiliation and activities to prior authorisation by the Ministry of the Interior following an inquiry by the Ministry of Foreign Affairs;
- requiring the submission of any declarations or statements to the Office of the Public Prosecutor 24 hours in advance of their release and authorising the Public Prosecutor to delay such release for 48 hours.

B. An Act concerning trade unions would be promulgated, inter alia:

- prohibiting the formation of federations;
- prohibiting membership of more than one trade union;
- requiring the constitution of trade unions for one branch of activity only;
- requiring the constitution of confederations with not less than seven trade unions in different branches of activity;
- decreasing (by government decree) to 24 the existing number of branches of activity (34);
- permitting the withdrawal of a worker from a trade union after giving three months' notice to that effect, through a notary public;
- prohibiting any kind of political activities, including supporting political parties, etc.;
- restricting affiliation with international organisations.

C. An Act concerning collective bargaining, strikes and lockouts, containing provisions:

against the restrictions stipulated in article 12¹, cannot have political aims, cannot carry on political activities, cannot receive support from political parties, cannot give support to political parties, nor can they do so jointly with trade unions, professional organisations such as public institutions or foundations.

Associations which lose the attributes with which they were established or which fail to comply with their commitments under the law are considered as dissolved.

Under conditions envisaged by law, associations may be closed by court judgement. In cases where delay in doing so might be deemed prejudicial to the indivisibility or the integrity of the State, its territory or its people, national security, public order, the rights and freedoms of others or the prevention of crime, the activities of associations may be suspended by the competent authority, pending the judgement of the court.

The following parts of the draft Constitution deal more specifically with the right to establish trade unions and collective bargaining:

D. The right to establish trade unions

Article 55: Workers and employers are entitled to establish trade unions and higher bodies in order to protect and promote their economic and social interests in labour relations, without prior authorisation. Membership of trade unions and resignation from membership is free.

No individual shall be forced to become a member, to maintain his membership or to resign from membership of a trade union.

Workers and employers cannot become members of more than one trade union at the same time.

The statutes, administration and functioning of trade unions shall not be in contradiction with democratic principles.

E. Trade union activities

Article 56: In addition to observing the restrictions imposed under article 12 hereof, trade unions shall not have political objectives, shall not support, or be supported by political parties, and shall not collaborate with vocational institutions, foundations or societies which take the form of public establishments.

Administrative and financial inspection, as well as the incomes and expenditures of trade unions, shall be regulated by law. Trade union dues shall be paid directly by the member.

Trade union activity shall not justify the non-performance of the work for which a person is employed.

Trade unions shall not use their funds for the pursuance of objectives other than those for which they are established. They shall deposit their strike and lockout funds prescribed in their statutes in national banks.

VI. The right of collective bargaining, strike and lockout

A. Right to conclude collective agreements

Article 57: Workers and employers shall be entitled to conclude collective agreements for the purpose of mutually adjusting wages and working conditions.

The procedures to be followed in concluding collective agreements shall be established by law.

¹ Restrictions of fundamental freedoms for the safeguarding of the integrity of the State, national security, public interest, etc.

- stipulating that a collective agreement for any branch of activity may cover more than one workplace;
- prohibiting workplaces from being covered by more than one collective agreement at the same time;
- that a union must represent at least 10 per cent of the workers employed in a branch of activity before it can be authorised to negotiate and that the union must represent the majority of the workers in any workplace which is covered by the collective agreement;
- providing for payment, without the consent of the union, of a solidarity contribution not exceeding two-thirds of the normal dues by non-members of the signatory union to enable them to benefit from the terms of the agreement;
- the extension of the prohibition of the right to strike to coal-mining, petroleum, banking and the tourist industry (during the tourist season);
- after 60 days a strike or lockout situation would be referred to the Supreme Arbitration Board for settlement;
- the requirement of 12 working days' notice before the commencement of strike action. If the union did not implement the decision to strike within 60 days, it would lose the authority to bargain for the workplace or establishment.

42. The TURK-IS representatives were adamant that they would not support any legislation which contained such provisions, which, in their view, were restrictive. They would continue, they said, to struggle to secure the adoption of legislation that did not fall below the standards set by ILO Conventions on freedom of association. The former President of TURK-IS, Mr. Tunç, however, said that the new legislation would be affected by public opinion in Turkey, which was anti-union. On the other hand he suggested that the ILO mission might influence the Government to seek advice from the ILO on the compatibility of the proposed legislation with ILO standards.

43. Mr. Ibrahimoglu, General Secretary of the Confederation of Turkish Employers' Unions (TISK), who was also a member of the Constitutional Commission, indicated that although his organisation had not been asked officially to comment on any specific text containing proposed provisions for the new labour laws, TISK had nevertheless been invited by the Committee of the National Security Council charged with the elaboration of new legislation to state its views on what that legislation might contain. Mr. Ibrahimoglu said he would be surprised if TURK-IS had not been similarly invited to express its views, but he was certain that, in any event, no legislation would be enacted without full consultation with employers and workers. He added that the existing legislation was over-complex and bore little relation to current social problems. Something had to be done, he added, to check the development of trade unionism based on political ideologies and to control trade union finances. The check-off system had led to corruption and mismanagement of money in the larger trade unions.

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The new draft Constitution

44. Towards the end of my mission - on 19 July 1982 - the draft Constitution was formally presented to the Speaker of the Consultative Assembly and published.

45. Part XI, A, of the draft Constitution, dealing with the right of assembly and the right to form associations reads as follows:

Article 33: Individuals are entitled to form associations without prior authorisation. The forms and procedures to be applied in the exercise of the freedom to form associations are regulated by law. Associations cannot act

Collective agreements shall not contain provisions contrary to, or designed to amend or abolish, existing laws.

There shall not be more than one collective agreement for the same workplace for the same period.

B. The right to strike and lockout

Article 58: In the course of concluding collective agreements, the parties shall have the right to strike and lockout. The procedures and conditions for the use of these rights shall be regulated by law.

The right to strike and lockout shall not be exercised in any way which contradicts the principles of integrity, which harms society or which destroys social wealth.

Trade unions shall be responsible for damages caused to places of work during strikes.

The conditions in which strikes and lockouts may be prohibited shall be regulated by law.

Disputes arising from the prohibition or postponement of strikes and lockouts shall be settled by the Supreme Council of Arbitration.

Strikes and lockouts with political aims, solidarity strikes and lockouts organised in support of other strikes and lockouts, general strikes and lockouts, occupation of the place of work, resistances and slow-downs to lower production are prohibited. Sanctions for such acts shall be prescribed by law.

Those who do not participate in strikes and carry on their duties at the place of work shall not, by any means, be impeded from doing so.

C. Prohibition of strikes and lockouts in small-scale enterprises

Article 59: Strikes and lockouts shall not be permitted in small-scale enterprises where no more than ten workers are employed. The appropriate conditions of work in such enterprises shall be published by the Council of Ministers for the duration of the collective agreements.

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46. The initial reaction of TURK-IS to the published draft Constitution was one of strong opposition to what its President, Mr. Yilmaz, was quoted as calling "a Constitution which would put an end to the labour movement in Turkey". In subsequent meetings which I was able to have with representatives of TURK-IS, I was informed of the campaign which that organisation would now organise to encourage amendments to the draft Constitution, either at the stage of debate in the Consultative Assembly or when it eventually reached the National Security Council. To a large extent the draft Constitution itself contained the kind of restrictive provisions which TURK-IS had feared would appear in new legislation which would be promulgated after the Constitution had been adopted. In the meantime, TURK-IS would, and had already begun to use the media to voice its very strong objections to what it considered as being undue restrictions on trade union activity.

47. During the mission there was much evidence in the local press in Ankara that TURK-IS was not the only source of criticism of the draft Constitution. In particular there was critical comment from some of the draughtsmen of the 1961 Constitution as well as from a number of members of the academic community.

48. Although time did not permit me to have a further meeting with the Confederation of Employers' Trade Unions following the publication of the draft

Constitution, the reports in the press indicated that the employers' reaction to the draft was generally favourable. Mr. Koçman, President of the Turkish Industrialists' and Businessmen's Association, however, expressed the view that the draft was "more conservative, even reactionary" than he would have expected. Changes in the Constitution had been inevitable, he added, since the 1961 Constitution had opened the door to Marxism. More specifically, he felt that the draft was too detailed and that provisions concerning the check-off, the right to lockout, etc., had no place in a Constitution. Furthermore, Mr. Koçman considered that the 60-day limit on the duration of a strike was too restrictive. He hoped that the draft would be somewhat "liberalised" before the people were called upon to vote upon it but he felt sure that even in its present form it would be adopted in a referendum.

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VIII. Questions concerning detained trade unionists

49. At its examination of the case in March 1982, the Committee on Freedom of Association had noted with concern that, according to the complainants, the trial of 52 DISK leaders, who were liable to capital punishment, was being conducted according to a procedure whereby the rights of the defence had been restricted by a decision of the military tribunal to apply the provisions of martial law. The Committee also requested the Government to supply information on the allegations made concerning ill-treatment and to communicate the results of the inquiries ~~undertaken concerning such alleged ill-treatment. The Committee also called upon~~ the Government to ensure that the living conditions in penitentiaries respected human dignity and the safety of life and limb and to review existing legislation with a view to reducing the period of police custody if it still was 45 days.¹

50. In communications dated 13 April and 7 May 1982 the Government transmitted information on the case and on further allegations that had been made by the World Confederation of Labour, the World Federation of Trade Unions and the International Union of Textile Workers.

51. In order to obtain as much information as possible concerning this important aspect of the case I had requested that arrangements be made for interviews with representatives of the Ministry of Justice, the Military Prosecutor in the DISK trial in Istanbul and some of the lawyers who represented the 52 DISK leaders involved in that trial. In addition to these arrangements, all of which were made without difficulty either by the Government or by making contact directly with the persons concerned, I also met with some friends and members of the families of some of the DISK leaders who are standing trial, some members of DISK who had been arrested but who were later released, and with representatives of the Military Supreme Court of Appeal in Ankara.

52. In view of the primary importance which I attached to meeting personally some of the 52 DISK leaders who are on trial, and in view of the Government's failure to respond positively to the previous request made to it to authorise such a meeting, I decided immediately on my arrival to Ankara to address a formal letter to the Director of the prison where the DISK leaders are being detained requesting authorisation to meet some of the leaders. My letter - which was transmitted to the Director of Davutpasa Prison in Istanbul by the Ministry of Foreign Affairs - read as follows:

¹ See 214th Report of the Committee, para. 574.

56. The Minister of Labour, to whom I similarly requested assistance in facilitating contacts with the detainees, replied that he would not be able to do so.

57. I also took the opportunity of handing a copy of my written request to Mr. Yildirim Türkmen, General Director of Criminal Affairs of the Ministry of Justice, whom I met on 13 July 1982. Mr. Türkmen said that while he hoped that permission would be granted he was not optimistic about the success of my request. He added that he himself had no power to intervene with the military authorities.

58. When I met the President of TURK-IS, Mr. Yilmaz, on 14 July 1982 I also informed him of my formal request to meet the detainees and of the somewhat negative reaction I had received thus far. It was my hope that an intervention by him would add weight to my request. Without hesitation, Mr. Yilmaz indicated that he would, in the course of his meeting with the Prime Minister the following day, and before discussing any of the other items on the agenda fixed for that meeting, raise the question of access to the detainees and do everything possible to encourage a positive response. This was the first of a number of interventions made with the authorities by Mr. Yilmaz and his colleagues in TURK-IS to ensure that the mission would obtain access to the detained trade unionists.

59. In Istanbul, following a visit to the court where the trial of the DISK leaders is taking place, I raised once again the issue of access to the detainees with the Military Prosecutor at the trial, Colonel Hanefi Öncül, who stated that the orders that had been given would not permit the regulations to be interpreted in such a manner as to allow access to them by persons other than the next-of-kin specified in those Regulations. When I asked him if he could let it be known to the Director of the prison that the Prosecution would see no objection if such access were granted he replied that the Director of the prison would be unable to make any exceptions in view of the controls imposed by the martial law authorities.

60. On my return to Ankara on 20 July 1982 I again expressed my concern ~~about the lack of a positive response on the question of access to the detainees~~ President of the Military Supreme Court of Appeal and the Deputy Chief Prosecutor of that Court. Once again, however, I was unable to obtain any positive indications that authorisation would be granted.

61. The Deputy Under-Secretary, Ministry for Foreign Affairs whom I met prior to my departure from Turkey to whom I again stressed the vital importance of authorisation to meet some of the detainees being granted, informed me that the military authorities had decided that no exceptions would be made. The Deputy Under-Secretary confirmed that my written request had been transmitted by his Ministry the day it was received.

62. Finally, official confirmation of the negative response to my request came from Professor İlhan Öztrak, Minister of State without Portfolio, who explained at length that although the Government was fully aware of its obligations towards the ILO and wished to fulfil its responsibilities towards the Organisation, it had nevertheless decided that no exception could be made as regards access to the detainees. The Government, he said, felt that to grant authorisation to the ILO at the present time would create a precedent which would lead to many other bodies seeking similar treatment.

63. I informed the Minister that the decision of the Government was very regrettable and expressed the firm hope that the authorities would reconsider the matter before the next meeting of the Committee on Freedom of Association. I added that I stood ready at any time to return to Istanbul in the event of authorisation to visit the detainees being granted.

VIII. The DISK trial

64. On 16 July 1982 the mission attended the trial of the 52 members of DISK and the mayor of Istanbul, Mr. Ahmet İsvan. The trial is taking place in the Atatürk Öğrenci Yurdu (Hostel), Istanbul, a large enclosed sports stadium converted into a courtroom for this purpose. The stadium contains adequate space and seating arrangements for the bench, prosecuting counsel, defence counsel, the press and other media and for several hundred spectators. During the proceedings the prisoners are seated in the middle of the courtroom and security arrangements are tight both in the courtroom and in the area outside it.

Ankara, 12.7.82

Sir,

As representative of the Director-General of the International Labour Office charged with carrying out in Turkey an on-the-spot inquiry into the facts relating to complaints of alleged infringements of trade union rights submitted by a number of trade union organisations against the Government of Turkey, I am writing to you formally to request your authorisation to meet with a number of trade unionists who are mentioned specifically in the complaints as being held in detention. In particular, your authorisation is requested as regards those trade union leaders of the DISK and the MISK Organisations who are presently standing trial in Istanbul. It is my understanding that, in accordance with the military regulations for Penitentiaries and Detention Centres, you, as Director of the Institution, are the sole person authorised to grant authorisation of the kind requested.

I am sure you will appreciate that the success of my mission - to which the Government of Turkey has consented - will depend on the extent to which facilities may be granted by the authorities, and I need hardly stress that meetings with some of the persons detained would contribute greatly towards a true appreciation of the facts concerning the allegations that have been made regarding these persons.

Arrangements have already been made with the government authorities for me to carry out other meetings in Istanbul from 16 to 20 July and, during this time, I shall be visiting the court where the trial of the DISK leaders is taking place. May I suggest that this would be an opportune time for me to have the meetings which I am hereby requesting. I am sure that you will appreciate the importance, for all the parties concerned, of holding these meetings and your early consideration of this request and the granting of the authorisation hereby sought will, therefore, be greatly appreciated.

Yours faithfully,
On behalf of the Director-General:

Ian Lagergren

53. In addressing this letter I was aware that, although the Military Regulations for Penitentiaries and Detention Centres (article 46) provide for visits to detained persons being restricted to next-of-kin, nevertheless the same Regulations provide for exceptions to be made in respect of visits by persons other than next-of-kin where "vital reasons" can be shown. Such exceptions may be made by the Director of the institution in question.

54. At my meetings with the General Director of International Economic Affairs, Mr. Ismet Birsell, and other representatives of the Ministry of Foreign Affairs (on 12 July 1982) and with the Minister of Labour (on 13 July 1982) I handed them copies of the letter I had addressed to the Director of the prison and formally requested their assistance in ensuring that a positive response was given. In particular, I explained to the representatives of the Ministry of Foreign Affairs that fundamental importance would be attached to the mission being able to meet with the detainees, or some of them, and that, since exceptions were permissible under the Regulations, I saw no reason why one should not be made in the case of an ILO mission. I also emphasised that, were such authorisation to be granted, this would undoubtedly help to reduce the tension that had built up between Turkey and the ILO as a result of the complaints. Turkey had so far co-operated not only by replying to the allegations but also by accepting an ILO mission, but the denial of access to the detainees might be interpreted as meaning that the Government wished to conceal the true facts from the mission.

55. Mr. Birsell, while agreeing to transmit my letter to the Director of the prison, said that he fully appreciated the open-minded and objective approach of the ILO to this question and that he understood that denial of access would have negative consequences for his country. He warned, however, that it was not at all certain that authorisation would be granted. On the other hand, he said, there would be no difficulty in seeing defence counsel or members of the families of the detainees.

65. After completing the simple formalities that are required prior to entry to the court and its precincts we were met by the army captain responsible for the security arrangements at the court who explained to us the routine followed when the court is in session and the facilities available to the families and members of the public attending the trial. The same captain, who from our own observations, enjoyed considerable popularity amongst the families of the defendants, stated that the strict rules of conduct that were applicable to the area were applied as flexibly as possible so as to ensure the maximum of material facilities to the families and other persons attending the trial as well as to the prisoners themselves. This was largely confirmed from our own observations and from what we were told by the defence lawyers and members of the families of the defendants to whom we were able to speak freely and privately both before the trial proceedings commenced and during the luncheon recess.

66. These meetings gave me the opportunity to question the defence lawyers and the families about the general condition of the prisoners, the right of access by counsel to the prisoners, allegations of torture, etc. The defence counsel with whom I spoke explained that access to the defendants was allowed on two occasions weekly, each for 20 minutes. In the prison in which they were being held conditions were much better than in other Turkish penal establishments and the food was adequate. All the defendants, he said, were in good physical condition and were allowed - even during the trial - sufficient time and facilities for exercise. Any allegations of torture that had been made related to the early stages of the arrest and interrogation of the prisoners by the police. There had been no allegations of torture or other forms of ill-treatment by the military. Asked about the previous lawyers who had been ejected from the court, one defence lawyer explained that they had not been familiar with military law or procedures and that they had "made mistakes" which had led to their removal from the case. The defence of all 53 persons on trial, however, was assured by the defence lawyers who remained active in the case.

67. The family members with whom I spoke, including the wife and daughter of Mr. Abdullah Bastürk, President of DISK and the brother of the mayor of Istanbul, confirmed that the defendants were in good physical condition and that their morale was fair. In prison, they said the prisoners were divided into two groups with each group having a television set and access to newspapers. Showers were available at any time and a Turkish bath was allowed every two weeks. The families could take in food parcels and diets were arranged for those prisoners who were in need of them.

68. Mrs. Bastürk confirmed that the military applied the regulations flexibly and, as an example, told me that two weeks previously, her husband had been taken by the military to visit relatives following the death, in a car accident, of his brother. His sister-in-law had also been seriously injured in the accident. The brother of the mayor of Istanbul also told me that special arrangements were being made to permit the mayor's son and wife to visit him following their forthcoming wedding. Criticism was made, however, by Mrs. Bastürk and some others that, during the court proceedings, the defendants were prevented from expressing themselves fully in response to accusations made against them, or that complaints of previous ill-treatment by the police had been "lost". She recalled the statement made in court by Mr. Bastürk in which he had claimed that he had been tortured during his initial interrogation at police headquarters.

69. Just prior to the opening of the court proceedings the 53 prisoners were led into the courtroom and our colleague, Professor Isik, was given permission to approach them and say a few words to Mr. Bastürk and a few others whom he knew personally. In this way Professor Isik was able to inform them of the presence in court of the ILO mission. While the prisoners were served with tea by the military their families and children were able to talk briefly with them.

70. The prisoners were all clean and well-dressed, and I was told by the medical officer in attendance throughout the trials that they were also in good health. It is regrettable that the mission was denied the right to seek information from the prisoners themselves on this important matter.

71. The proceedings opened with the continuing interrogation by the judge of Mr. Fehmi Isiklar, General Secretary of DISK. During the few hours we listened to this part of the trial there were no interventions either by the prosecutor or the defence lawyers. As is known the defendants are charged principally under articles 141, 142 and 146 of the Turkish Penal Code. Basically, article 141 punishes acts designed to achieve the domination of one social class over another or the

overthrowing of the basic economic or social order of the country. Article 142 penalises the dissemination of certain political ideas and doctrines and article 146 provides for capital punishment for any attempt to change or abolish by force all or part of the Turkish Constitution or to overthrow the National Assembly or prevent it from carrying out its functions.

72. Mr. Isiklar was closely questioned by the judge in connection with a publication he had written entitled "The Principles of Democracy and Mass Trade Unions". He was asked at length what was meant by certain phrases used in the book concerning such matters as "the concentration of the means of production in private hands", "the confiscation of the means of production and transfer of them to the State", "the elimination of exploitation and persecution", "the scientific approach to socialism", etc. After each sentence was uttered by the witness he was stopped by the judge who carefully dictated it to a stenographer, following which it was immediately typed in court. In this way no more than a dozen or so questions could be asked and answered in the course of an entire morning session of the court. After Mr. Bastürk, Mr. Isiklar was only the second accused to be heard by the court. The remaining prisoners would be heard in order of their hierarchical positions in DISK. During the morning session one petition was handed to the court by one prisoner requesting his release. We were later informed that others were presented the same day but that all were rejected by the court.

73. When I informed the Chief Military Prosecutor that a formal allegation had been made that his predecessor, Prosecutor Takkeci, had told a Dutch lawyer, representing the World Confederation of Labour, that DISK lawyers would also be prosecuted since, by agreeing to defend the 52 members of that organisation, they could be assumed to share their ideological beliefs, the Prosecutor said such a remark, if it was made, was to be regretted and in any event was untrue. Lawyers were defending criminals all over the country in complete freedom. Like all citizens, however, they were not immune from criminal proceedings if they committed criminal acts, such as hiding terrorists in their homes, etc. Under article 18 of the Martial Law Administration Regulations of 1971, which applied in a state of war, as was the case at present, the number of defence counsel could be limited by the court.

74. We were informed by the legal adviser to the martial law administration ~~when we met during the luncheon recess~~ that what we had seen in court was characteristic of the present state of the proceedings. While it was open to the prosecution or the defence to intervene at any stage in the proceedings their examination of the accused would take place at a later stage.

75. Following the morning session the military offered us the same lunch, consisting of boiled meat and potatoes, bread, beans, cheese and olives, that was being given to the prisoners.

76. A legal expert in criminal law explained that this was the first time in the history of Turkish penal law that an organisation (DISK) had been put on trial for illegal acts. In the 800-page charge no accusations had been made specifically against any of the 52 individual members of the union. What the prosecutor was endeavouring to prove, he said, was that through illegal strikes and other acts of violence with which DISK was, or may have been linked, that organisation had attempted to change the constitutional structure of the country by force. In other words, he said, it was a question of a legal organisation which, by its actions, had demonstrated covert illegal aims and objectives. Whether the prosecutor could prove this remained to be seen, but, he said, in his view as a legal expert on penal law, the arguments used were highly questionable in law. While section 146 of the Penal Code bore a specific reference to the use of force, sections 141 and 142 did not. However, he explained, by a majority decision (6 to 7) of the Constitutional Court in 1967, the use of force should also be understood as being a necessary element before conviction could be justified under these provisions. There had been much controversy about this point, however, since, prior to 1951 the Penal Code (in sections 141 and 142) had contained a specific reference to the use of force but that this reference had been deleted in 1951. Thereafter, the Court of Cassation had said that there was no need for resort to actual violence but that intent to commit violence had to be proved. The military courts were not bound by decisions of other courts, including the Court of Cassation, but they would be expected at least to take account of the jurisprudence laid down by these courts. The legal expert pointed out that, in the examination of criminal questions, the military courts had been more consistent in their judgements.

77. Asked whether the penalties for violation of section 142 of the Penal Code could involve the tripling of penalties in the case of unionists¹ the legal expert explained that, theoretically, it was assumed that the danger to society would be increased were section 142 to be violated by trade unions, government officers, schools, universities, municipalities, etc. Consequently, the crime was aggravated and the sentence could be increased by one third (not tripled). In the case of publication of the propaganda in question the sentence could be increased by one half (not doubled).

78. As regards other procedural matters concerning the DISK and other trials the mission was informed that, depending on the length of the sentence imposed, the accused would have the right of appeal to the Supreme Military Court of Appeal in Ankara. In addition, the period of interrogation prior to charges being brought had been reduced from 90 days to 45 days.

79. I first raised the question of alleged torture and other forms of ill-treatment with the Director of Penal Affairs of the Ministry of Justice who explained that, generally, a very serious view was taken in Turkey on torture. Torture, he said, was a crime punishable by heavy penalties and prosecutors were obliged to take action when cases were brought to their attention. He did not deny the existence of a number of cases of torture or ill-treatment but he stressed that investigations were made into each case and prosecution followed where necessary. The Director-General of Penal Affairs provided the mission with statistics showing the number of allegations of torture made, prosecutions, convictions, etc. and said that even one case, involving a policeman (Mustafa Haskeris) who had been sentenced to 14 years' imprisonment for the torture and death of a prisoner, but who had escaped, was being pursued through Interpol.

80. Since the Department of Penal Affairs was responsible for pursuing criminals outside Turkey, I asked the Director-General about the question of the removal of nationality in certain cases. The Director-General explained that all cases were examined under the provisions of Turkish law on nationality. Where persons could not be found and where sentences had been pronounced by the courts in their absence they could be stripped of their nationality. This had been done, he said, not only in the case of trade unionists but of many others (including the nephew of former Prime Minister Demirel).

81. Pursuing the question of torture and, more specifically, the allegations made in connection with the ill-treatment that was stated to have been inflicted on Mr. Bastürk and Mrs. Oksan Yardimci, a legal adviser to the DISK organisation, the Director-General said that, although he himself was not familiar with the details of these cases, he would arrange for the mission to be given full details about them.

82. Not having received direct access to Mr. Bastürk, it was impossible to question him personally about any ill-treatment to which he claimed to have been subjected. From Mrs. Bastürk, however, we heard that a formal request he had made for an investigation into alleged torture seemed no longer to be on file.

83. As regards Mrs. Yardimci, we met, by coincidence, the army major at the DISK trial who had been personally responsible for investigating the allegation of ill-treatment that had been made by her. Although he had not met Mrs. Yardimci, he said that the prison hospital where she had been examined had reported that although her body showed signs of some bruising, her legs were not broken, as had been alleged. Mrs. Yardimci, he said, had been released but investigations were continuing into certain charges made against her.

84. According to the Chief Military Prosecutor in Istanbul an order had been received, on 22 April 1982, from the Commander of Martial Law in Ankara to investigate allegations regarding the torture of Mrs. Yardimci when she was being held by the 1st Police Division. A previous medical report had shown that no ill-treatment had been inflicted. A final medical report had only recently been requested and would be forwarded to the ILO when it was available. The Chief Military Prosecutor added that Mrs. Yardimci was accused of having links with an illegal organisation called "Partisan's Road".

85. One lawyer presently representing DISK at the trial and who was a personal friend of Mrs. Yardimci, told us that he had seen her after her release.

¹ See 207th Report, para. 315.

He confirmed that her legs had not been broken but suggested that she had been ill-treated in other ways. She had gone to stay with friends after her release but he could not say where. Another personal friend, a journalist, also confirmed that Mrs. Yardimci's legs had not been broken. This person, too, was unable to assist us in tracing Mrs. Yardimci's whereabouts.

86. Three members of affiliated organisations of DISK who had been arrested and released after 20 months and 20 days, 17 months, and 8 months and 17 days respectively in detention, all told me that they had suffered ill-treatment at the hands of the police during interrogation although there had been no question of such treatment following their transfer to military establishments. The ill-treatment they described consisted of blindfolding during interrogation and the use of abusive language and indecent remarks about the prisoners or their families. The three persons had been released and informed in writing that, if investigations led to prosecution, they would be charged under sections 141 and 142 of the Penal Code.

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IX. Further allegations

87. Much evidence was obtained concerning the incidents at the Taris textile factory at Izmir in 1980 which led to a number of deaths (not only of workers but also of members of the security forces), injury and arrest of a large number of workers. Severe sentences of up to 24 years' imprisonment had been imposed on 185 ~~workers~~.

88. The films taken by the Turkish television authority during these incidents confirmed the gravity of the situation and the very extensive damage that was caused to the Taris factory and installations during the incidents.

89. The President of TURK-IS, Mr. Yilmaz, said that, as former President of the Textile Workers' Union, he was personally familiar with this matter which, he emphasised, had nothing to do with legitimate strike action. The problem had been caused by militants who were attempting to coerce the workers into joining their unions. Threats of violence were made against workers if they refused. Finally, fighting had broken out and the militants occupied the factory. It was the workers themselves who had called in the forces of order and the ensuing clashes had resulted in bloodshed and damage.

90. The Deputy Chief Military Prosecutor of the Military Appeal Court in Ankara explained that, although several hundred people were involved in the clashes at the Taris factory, only 152 were actually sentenced by the local court, these sentences later being upheld by the Appeals Court. In a number of other cases relating to the same incidents further investigations were still being carried out to determine responsibility.

91. Finally, I raised with the military authorities two other matters which had been the subject of allegations: the arrest and torture of Mrs. Ilgi Varis and the sentencing to 5 years 6 months and 20 days' imprisonment of 14 members of the MADEN-IS union choir for singing the "Internationale". As regards Ilgi Varis, the Deputy Military Prosecutor of the Court of Appeal said that, as far as he knew, no written complaint had been received in this case. He promised, however, to look into the matter and inform the ILO of the results of his inquiry. As regards the 14 members of MADEN-IS, the Deputy Military Prosecutor, referring to the file on the case, informed the mission that nine of the 14 had been found not guilty by the local court in Istanbul and only 5 had been found guilty and sentenced. In any event, he said, the charges had related not to the singing of the "Internationale" but to the dissemination of political propaganda at the congress held by the union in question, an act prohibited by the Penal Code.

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X. Concluding remarks

92. As is customary in missions of direct contacts of this kind, I arranged, at the end of my mission, to meet again with representatives of the Ministry of Foreign Affairs, and in particular with the Deputy Under-Secretary for Foreign Affairs, Mr. Iscen, as well as the Minister of Labour, Mr. Esener, in order to convey to the Government the over-all impressions that I had gained as a result of my inquiries and, as far as possible, and without prejudice to any conclusions which the Committee on Freedom of Association might reach, to make any suggestions that I might consider relevant and appropriate in the light of ILO standards and principles on freedom of association. The suggestions I made were also intended to facilitate the finding of solutions to the outstanding questions that are still under examination by the Committee and to expedite the communication of any information which still remained outstanding at the end of the mission. I was also able to express certain personal views when I met the Minister of State without Portfolio, Professor Öztrak, at the end of my mission.

93. First and foremost, I expressed to all of those interlocutors my profound concern and regret that authorisation to meet with some of the 52 DISK leaders had been denied. This was the matter to which the greatest importance would be attached by all concerned, and the failure on the part of the authorities to grant, exceptionally, to an ILO mission authorisation for such a meeting would, rightly or wrongly, cast doubts on the credibility of the Government's apparent willingness to co-operate with the ILO in its examination of the complaints. The ILO could not be compared with any of the other organisations or groups that had made similar requests, nor, in my view, would authorisation to the ILO mission necessarily have created a precedent which the Turkish Government would have been obliged to follow in other cases. The ILO was a tripartite organisation of which Turkey was a member and was charged under its mandate to make the fullest inquiry possible into allegations made against a member State in order to enable it to reach impartial and objective conclusions and make any recommendations it might consider appropriate. I expressed the firm hope that the Government, in its own interests, would reflect upon these considerations and reconsider its decision. Should there be any change of attitude on the part of the Government I stood ready to return to Istanbul at any time prior to the next meeting of the Committee in November.

94. Regarding the DISK trial itself, I indicated that I felt perturbed by two matters about which I had spoken at length with the Chief Military Prosecutor, namely (1) the fact that the plea for the death sentence was still outstanding in respect of all the detainees, and (2) the extreme slowness of the procedures. Most people to whom I had spoken were convinced that no death sentences would eventually be passed and I myself had taken every opportunity to suggest that, even if one such sentence were passed, the international image of Turkey would be seriously tarnished as a result. I had even made a formal request to the Chief Military Prosecutor that if it were possible, he should alter his plea at once to one for a lesser sentence in the event of conviction. His reply was that while this would be procedurally possible, he felt that the most appropriate time to do this, should he so wish, would be after all the evidence had been heard. There was no doubt, however, that, were the pleas for the death sentence to be changed, this would serve to reduce the tension that still weighs heavily on the families and friends of the detainees.

95. The laudable desire expressed by the military authorities to take the greatest care in seeing to it that justice is done was no justification for the alarming slowness in the proceedings. Even the mere introduction of a more modern shorthand-writing system or a parliamentary stenographer would reduce considerably the time taken to adduce evidence in court. Again, the hierarchical order in which the witnesses are being examined seemed grossly unfair to those less important members of DISK - some of whom were only members of that organisation for a very brief period - who may have to remain in detention for many more months before their evidence is heard. I had been informed that a system of compensation did exist in Turkey for persons eventually acquitted or given lesser sentences than the amount of time they had actually spent in detention. I expressed the hope that that system would be properly applied, where appropriate, in the case of DISK leaders.

96. It was apparent, I told my interlocutors, that investigations are made into cases of alleged torture and that charges are brought against persons responsible therefor. According to my inquiries, however, it seemed that some DISK leaders' complaints about alleged torture had disappeared. In this connection I again raised the question of the allegations of torture that had been made by Mr. Bastürk in court and those made concerning Mrs. Yardımcı, adviser to the DISK, adding that no satisfactory explanation had been given to the mission regarding the examination of these allegations. I requested that all of these cases be carefully examined and appropriate action taken in the event of these allegations being substantiated. I was given an assurance that detailed information would be transmitted to the ILO concerning these matters.

97. To the Minister of Labour, in particular, I expressed my surprise that, despite what he had told me about the desire of the Government to ensure that future labour legislation was in conformity with the ILO Conventions, the draft Constitution nevertheless contained provisions that clearly restricted the rights of workers to organise and bargain collectively. It also, in particular, abolished the check-off system which the Minister had previously said was out of the question. The Minister conceded that he had not been consulted about the terms of the draft Constitution and not even on those detailed provisions concerning trade union activities. He said that it was possible that changes would be made in the course of the debate in the consultative assembly and by the National Security Council itself prior to the referendum in November. Only then would he be able to see what the terms of the more specific legislation concerning trade unions should be. I repeated the offer which I had previously made to the Minister of ILO technical assistance in preparing legislation that would conform to ILO standards. I was left with the distinct impression, however, that there is great reluctance on the part of the Minister to involve the ILO, at least formally, in the drafting of any such legislation. As regards the terms in which the draft Constitution has been presented, much will depend on the pressure of enlightened academic opinion and the weight of TURK-İS to ensure that the restrictive provisions are removed or at least limited in scope prior to the promulgation of the Constitution.

98. In conclusion, it can only be said that, in Turkey today, with the suspension of DISK, MISK and other organisations, and the reduction of the one remaining organisation which has any legal right to exist, TURK-İS, to a passive role in society without any collective bargaining rights or the right to strike, trade union rights, even in the narrowest sense, do not exist. It is normal to expect that a government will take radical measures to eliminate the kind of anarchy and terrorism with which Turkey was faced in 1980; it is also normal to expect that such radical measures may involve certain restrictions on trade union activities and the arrest and detention of terrorist elements, who may include trade unionists. It is highly questionable, however, whether the elimination of terrorism in the country justified the total suspension of trade union activities, the suspension of certain trade unions to which certain detained trade unionists belonged, and the excessively lengthy trials against trade unionists who were arrested almost two years ago.

99. With the publication of the draft Constitution and the Government's declared determination to return the country to democratic rule by 1984, the Government now has the possibility to restore all the rights and liberties on which democracy and the free exercise of trade union rights depend. The published draft Constitution, however, does not inspire confidence that trade union rights and those civil liberties which are essential for their exercise will be fully restored. Nor does it seem likely, in the present circumstances, that the trial of the DISK leaders will be brought to a conclusion in the near future.

100. The lifting of the measures of suspension imposed on certain trade unions, the resumption of trade union activities by them and the restoration of their funds and property to them will also depend largely on the outcome of the trials that are still taking place, as well as on the final form which the Constitution and the labour legislation will take.

101. The future action of the Turkish Government on all these aspects of the situation will indicate whether it is the Government's real intention to return to a form of democratic life in which trade unions can promote and defend, in full freedom, the economic interests of the workers.

102. It will be for the Committee on Freedom of Association, in November 1982, to make a full assessment of the situation in the light of further developments that may take place prior to its meeting.

AVRUPA KONSEYİ'NDE YAPILAN TÜRKİYE'İ
Türkiyeli Gazeteci Temsilcilerinin
BASIN TOPLANTISI

26. Eylül. Perşembe. Saat 18.00

Toplantı Başkan :

Danimarka Milletvekili A. Kouseyi
Başkan Yardımcısı Lasse BLDTZ.

Katılan Türkiyeliler :

Toplantıda Basına dağıtılan
Metinde belirtilen kişilikler
adına sunlar hazır bulundu.

Feidun AKSIN
Mehmet BOZ
Ahmet EROL
Mehmet KARACA
Beia ONGER
A. Muhit SÖKÜCÜ

Ayrıca Batı Avrupa'daki Türkiye'li ~~8~~
8 Örgütün temsilcileri Parlamenterler
bir Mektup ve Türkiye'deki durumu
ilişkin bir ~~belge~~ belge verdiler. Ayrıca
gazeteli temaslarda bulundular.

Basın Toplantısına, Konye'de bulunan
~~Tüm~~ ~~ulus~~ hermen Tüm uluslararası
 Basın ajanslarının temsilcileri
 ve gazetelerin temsilcileri ve ilki
 Tüm gazetesi katıldı.

Gazetecilerin sorularının katılan
 lar adına M.İş Genel Bşk. Melahet
 KAKACA cevaplandırdı.

- Sorular özetlikle seçimlerin de-
 motivatifi olup oluyacağı?

~~Yok~~

- Oylama konusunda bir yönelim de
 bulunup bulunulmayacağı?

- DİSK'in daha önce burada ko-
 nulan yöneticilerinin Türkiye'nin
 Avrupa Konseyi'nden çıkarması
 konusunda "Çıkarmalı" demedik-
 lemini bugün bu değişikliğin
 nereden geldiğini?

yacalı bir ~~yap~~ yönünün altında olduğunu ³ belirtti.

- Seçimlerde ise "kendi adınla söyle-
yemem" diye engelleyen "geçersiz
oy kullandırması" ~~kararı~~ etilirdi dala-
rım ve her geçersiz oyun cumhurbaş-
kanı bir darbe olacağını belirtti.

Daha birçok somut aşamada
em göre çarpışmalar bunlardı.

Not

Kuşuza bakılmayın çok acile
yazmalı olduğum.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

8 May 1984

BIL-2

Doc. 5216

PARLIAMENTARY ASSEMBLY

OPINION

on the situation in Turkey (1)

presented by the Legal Affairs Committee (2)

(Rapporteur: Mr STOFFELEN)

- (1) See Resolution 803 (1983); and Doc. 5208 (report of the Political Affairs Committee)
- (2) Adopted by the committee on 7 May 1984 by 20 votes to 4 and 2 abstentions

Members of the committee: MM Elmquist (Chairman), Stoffelen, Sir Dudley Smith (Vice-Chairmen), MM Alder, Altug, Apenes, Mrs de Azevedo, MM Blenk, Cardia, Caro, Mrs Desmond, MM Dreyfus-Schmidt, Frangos, Freeson, Guimon (Alternate: Nunez), Haase, Hill, Hugosson (Alternate: Mrs Høvik), MM Karakas, Kazazis (Alternate: Miss Lambraki), MM Körlof (Alternate: Mr Blom), Margue (Alternate: Prussen), Mercier, Michel (Alternate: Mrs Staels-Dompas), Muheim (Alternate: Mr Gadiant), Mrs Offenbeck, MM Van der Sanden, Schmidt, Schwarz, Tripodi, Valiante (Alternate: Cavaliere), Van der Elst, Verde, Zito

NB: The names of those who took part in the vote are underlined

Secretaries of the Committee: MM Plate and Hartig

1. Introduction

1.1 This opinion is partly a consequence of the fact that the Parliamentary Assembly of the Council of Europe, for various reasons, did not reach any conclusions during the January 1984 session. After that session the decision was taken that the sub-committees of the Legal and Political Affairs Committees should visit Turkey in order to study and evaluate the present situation in Turkey.

1.2 The present opinion is based on the many discussions and meetings during the visit which took place from 26 until 28 April 1984 and the impressions we had in Turkey where the sub-committees had the opportunity to meet the following persons:

- (in Ankara) the Mayor of Ankara, the President of the Grand National Assembly, the members of the Turkish delegation to the Parliamentary Assembly of the Council of Europe, Mr Isike, former minister in the Ecevit Government, the ambassadors of the member states of the Council of Europe, the Secretary General of TURK-İŞ (Confederation of Trade Unions), the Prime Minister, the Ministers of Foreign Affairs and Justice, the Under-Secretary of State of the Ministry of the Interior, the Presidents of the Social Democracy Party and the Populist Party, Mr Demirel (former Prime Minister), the Presidents of the True Path Party and the National Democracy Party;
- (in Istanbul) the Mayor of Istanbul, the President of the Bar Association, the Chairman of the Confederation of Employers and Association of Turkish Businessmen, the lawyers of the Turkish Peace Association and of DISK and members of the press.
- Besides that three members visited the military prison in Diyarbakir and three other members (including myself) visited the military prison Mamak near Ankara.

1.3 As Rapporteur of the Legal Affairs Committee I want to evaluate the present situation on the basis of the criteria of the European Convention on Human Rights and its additional protocols and the fundamental human rights and freedoms which are essential for a parliamentary democracy. The Council of Europe is based on that convention and cannot and should not have double standards for the evaluation of parliamentary democracy and respect for human rights.

2. The position of the Grand National Assembly

2.1 First of all one has to remark that the facts concerning the preparation of the elections of November 1983 and the character of the Grand National Assembly are still the same as they were in January 1984. The elections of 6 November 1983 had been preceded by serious interference of the National Security Council. This council vetoed candidates using the powers given to it by the transitional provisions of the Political Parties Act: 937 candidates out of the 2,163 who had sought official approval had been rejected. Only three of the fifteen parties which had wanted to take

part in the elections had been authorised to participate. Besides that serious restrictions of the freedom of expression, association and assembly could be noticed during the preparations of the election.

2.2 In Resolution 803, adopted on 30 September 1983, the Assembly recalled that under Article 3 of the First Protocol to the Human Rights Convention "the High Contracting Parties" - which include Turkey - "undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature".

The Assembly declared in Resolution 803 that "under present conditions and on the basis of information now available, the parliament which will be elected in Turkey on 6 November will not be able to be considered as representing the Turkish people in a democratic manner, and could not therefore validly constitute a delegation to participate in the work of the Parliamentary Assembly of the Council of Europe".

After this decision the Legal and Political Affairs Committees asked the opinions of three constitutional experts on the new law on the political parties, the electoral law and the law on trade unions and collective bargaining and their conformity with the Statute of the Council of Europe and the European Convention on Human Rights. They expressed reservations, especially concerning the Political Parties Act. They felt that the provisions of that act taken as a whole contain extremely detailed regulations for every kind of activity and for the daily life of a political party. Regulations of this nature could be used - and abused - to guide the activity of political parties in a way which is not compatible with normal democratic standards in a Western European society, nor with Articles 10 and 11 of the European Convention on Human Rights.

2.3 At the same time it is a fact that shortly after the elections of the Grand National Assembly and the forming of the government headed by Prime Minister Özal, the government decided to hold municipal elections with the freedom for all political parties to take part. Those elections with a barrier of 10% of the votes had the following results:

Motherland Party	41.3%
SODEP	23.4%
True Path Party	13.3%
Populist Party	8.8%
Nationalist Democracy Party	7.1%
Welfare Party	4.8%
Independents	1.3%

2.4 Three conclusions may be drawn. The first is that the Motherland Party of Prime Minister Özal strengthened its already comfortable position. The second conclusion is that 42.8% of the population in Turkey is not represented in the Grand National Assembly. The third conclusion is that - bearing in mind a barrier of 10% - two parties which are represented in the Grand National Assembly (the Nationalist Democracy Party, which had the support or at least the sympathy of the National Security Council, and the Populist Party) are now in a very weak position.

2.5 Speaking about the freedom of political parties - with the exception of parties on the extreme right and left - we have to express our great concern on the investigation just started against the True Path Party. The attorney-general has asked for the interdiction of that party. The essence of the accusation is that this party - at least in the opinion of the attorney-general - publicly expressed to be a successor of the former party of Mr Demirel. This prosecution against the True Path Party may create a situation where political rights and liberties would not be guaranteed in accordance with the requirements of a parliamentary democracy.

At the same time the SODEP declared not to want new parliamentary elections.

2.6 To sum up: one has to note that there is still the problem of compatibility of the elections of the Grand National Assembly with the principles of the Statute of the Council of Europe. This problem can only be fully solved through elections in due time. At this moment however there is freedom for political parties insofar as this is compatible under martial law. The prosecution against the True Path Party however could have - in case of interdiction of that party - very serious consequences for that freedom. To avoid any misunderstanding: it is essential in a parliamentary democracy that political parties are free in their activities, expressions and manifestations. The only restrictions which are compatible in a democracy are mentioned in Articles 10 and 11 of the European Convention (provided by law and necessary in a democratic society).

It would be a great help if the Grand National Assembly could decide to change the legislation in this respect, especially the law on political parties.

3. Martial law

3.1 The maintenance of martial law implies the suspension of several rights and liberties for the great majority of the population. It is a serious obstacle to the full restoration of democracy.

There are numerous martial law decrees. The most questionable is probably Martial Law Decree 52. This decree prohibits persons from expressing views "in accordance with their own understanding" on the "past or future political or legal structure of Turkey". The same law prohibits commentary on trials and investigations of political or labour leaders.

3.2 During the visit of the sub-committees the Prime Minister declared to share the opinion that the maintenance of martial law presents an obstacle to the full restoration of democracy. Recently martial law has been lifted in 13 provinces. In the summer the decision will be taken to further lift martial law. Some members of the Grand National Assembly expect the full abolition of martial law in about 12 months.

3.3 In this respect it is vital to change the present situation in which a person may remain in custody for 45 days without charges and without seeing its family or lawyer; the provision that there is no right of appeal if the sentence is shorter than six months should also be urgently abolished.

It is fair to remark that martial law in itself is not incompatible with the European Convention on Human Rights (Article 15). It is also fair to remark that the situation before 12 September 1980 (date of the military take-over) was dramatical as far as terrorism and criminality (25 killings every day) were concerned. It is clear that under martial law the safety for the population - the right to life - is very great. This was not the case in the provinces which were under martial law before the military take-over.

4. Amnesty for political prisoners

4.1 There is no doubt whatsoever that the detention of a person for his or her opinion is contrary to the European Convention on Human Rights (inter alia Article 10: freedom of expression). There is no reason to doubt that a lot of political prisoners are in custody or imprisonment in Turkey. According to several sources the lowest official number of political prisoners is 21,121 (Agence France Presse, 7 July 1983). In any case an amnesty is needed for persons who did not commit violence and are in custody or prison for their opinions. Especially the position of the members of the Peace Movement Association and the Trade Union DISK is a matter of great concern. Apart from the apparent lack of foundation of the indictment they deserve an amnesty in as far as they are in custody for expressions of opinion which are absolutely free, and should be free in a normal parliamentary democracy.

4.2 It is obvious that Articles 141, 142 and 146 of the Turkish Penal Code taken from the Italian Penal Code during the fascist regime should be abolished. They are particularly dangerous if read in conjunction with certain provisions of the Constitution. Article 141 of the Penal Code forbids individuals to form or attempt to form or to have anything whatsoever to do with the activities of an organisation aimed at establishing the supremacy of one social class over another or at abolishing a social class or at abolishing any of the basic economic or social principles of the country.

Article 142 prohibits "propaganda" in support of actions prohibited under Article 141.

Article 146 prohibits attempts by force to change the Constitution in whole or in part, or to hinder the functioning of the parliament. It also prohibits advocating, encouraging or helping such action, whether one does so in writing, orally or by means of posters. These articles have been used and are used in order to accuse members of the Peace Movement and DISK for activities and expressions which are completely free in every normal democracy. A change of this legislation and of the Constitution is probably needed in order to change this. If that is the case we hope and expect the Grand National Assembly and the governments to do so.

4.3 It is encouraging that during the visit of the sub-committees some members of the Grand National Assembly told us that they fully understand that the custody or imprisonment of people as for instance the Peace Movement Association (which has nothing whatever to do with the Communist World Peace Council) is a disgrace for any parliamentary democracy.

They told us that several proposals are in study to declare an amnesty for political prisoners.

The prime minister declared that the government is considering the conditions for an amnesty for political prisoners this year.

5. Further respect for human rights

5.1 The situation in prisons

During our visit two small delegations got permission to visit two military prisons, namely Diyarbakir and Mamak. As Rapporteur I want to stress the following aspects:

- The number of persons in custody or in prison is so high that it exceeds apparently to a great extent the capacity of the detention facilities and prisons. The result is that several persons have to share their rather small rooms or cells (for instance 13 small beds, side by side).
- There are many allegations that torture is going on in police stations, detention houses and prisons. We heard shocking examples. It is a fact that the government and the parliament are willing to investigate allegations and promise the severe punishment of persons guilty of torture or inhuman treatment. An official governmental committee investigated and concluded that there is no systematic torture, but that there are cases of torture. The Justice Committee of the Grand National Assembly is about to decide to form a sub-committee to investigate allegations of torture.
- Apparently the food for the prisoners is rather good.
- In some prisons, for example Metris, there is no daily opportunity for the inmates to go into the open air.
- A matter for great concern is that there is no free contact between lawyers and accused. A prison authority is always present.
- A matter of even greater concern is that persons are in custody for three, four or five years without being tried.

There is no doubt that this is contrary to Article 6 of the European Convention of Human Rights (a fair and public trial in reasonable time).

5.2 Freedom for lawyers and the defence in general

According to reliable sources in our countries and according to information given by the lawyers of the Peace Movement Association, the DISK and other equivalent political trials, there are serious obstacles and problems for the defence. We heard of many shocking examples, inter alia:

- The arrest of lawyers during the trials because they were accused of making illegal political propaganda and of acting against martial law decrees.
- There is no free contact between lawyers and their clients (always the presence of a military authority).
- In case of protest against the procedure, the accused are sometimes removed from the sitting.
- Members of the Bar defending the Peace Movement Association and DISK were so afraid of retaliation measures that they did not dare to give authority to mention their names.

This is indeed a matter of great concern. It is urgently needed that the defence is free in its contacts with clients both during the preparation of the defence and during that defence.

5.3 Freedom for political parties and trade unions (freedom of expression assembly and association)

I mentioned already the judicial investigation against the True Path Party. All the Turkish parliamentarians we met declared not to expect the interdiction of that party.

The only permitted trade union declared not to have the right of free collective bargaining or for instance to celebrate the first of May. However, this trade union seemed to be confident that several changes of the law on trade unions will be introduced. Partly as a result of this, the position of DISK is desperate. I hope and expect that the members of the Grand National Assembly understand how essential it is in a parliamentary democracy that there is freedom for trade unions.

5.4 Freedom of the press

It is rather clear that at this very moment the freedom of the press is less restricted than it was some months ago. Nevertheless as a result of the implementation of certain provisions in the Constitution and for instance of the use by the prosecutor of Articles 141, 142 and 146 of the Penal Code and also as a result of martial law there is a self-censorship to avoid such problems as the closure of the newspaper or the arrest of a journalist. A striking example was that during our visit of the mayor of Ankara, in the presence of several journalists, they all laid down their pens from the moment we started a discussion on martial law.

5.5 Freedom of education and universities

Here again there is sufficient reason to express the wish that freedom of education and science is fully respected in Turkish universities. Abolition of martial law would be of great help.

6. Conclusions

6.1 The first conclusion is that it is undeniable that great progress in the direction of full restoration of parliamentary democracy and full respect of human rights was made during the last months: partial lifting of martial law, the prospect of an amnesty for political prisoners, a certain amount of freedom for political parties, the firm willingness to investigate and stop torture, the firm willingness of all members of the Grand National Assembly and the government to fully restore parliamentary democracy and guarantees for respect of human rights.

The second conclusion is that nevertheless a long and serious way has to be followed in order to reach the aims of these guarantees and a normal parliamentary democracy.

The third conclusion is that according to the standards of the European Convention on Human Rights, Turkey is not yet a normal parliamentary democracy. As said before: many measures are indispensable in order to restore normal parliamentary democracy.

It is up to the Political and Legal Affairs Committees to study and evaluate the situation in Turkey in a dialogue with the Turkish authorities and to report back to the Assembly, also with other words: to report whether the Turkish Government and Grand National Assembly are willing to take or have taken all measures which are indispensable for a full restoration of parliamentary democracy and full respect of human rights.

6.2 The crucial question is whether one wants to judge again the elections of the Grand National Assembly or to help and encourage the government and the Grand National Assembly in a critical dialogue and discussions with the Parliamentary Assembly in taking all measures needed for that full restoration of a parliamentary democracy and respect of human rights.

In case one wants to judge the elections of 6 November 1983 the logical conclusion would be to force Turkey to leave the Council of Europe. This would be a historic mistake now. The Parliamentary Assembly never followed proposals to recommend any proceedings under Article 8 of the Statute of the Council of Europe to suspend Turkey from its rights of representation and to oblige Turkey to withdraw as a member of the Council of Europe after the military takeover. It would be illogical to make such a recommendation now.

It is clear that the Turkish Government and the Grand National Assembly have made a substantial progress towards the full restoration of a parliamentary democracy. They are firmly determined to take the further indispensable measures. Whether one likes it or not: the only institutions who can restore a situation of full compliance with the principles of the Council of Europe are the Government and the Grand National Assembly of Turkey. It is a

striking fact that several Turkish politicians for instance of the SODEP pleaded and begged to help and to encourage the Turkish Grand National Assembly in a critical dialogue, with concern and respect. They appealed to us not to cut off the links between Turkey and the Council of Europe but to help the Turkish politicians to restore fully parliamentary democracy and respect of human rights. For the sake of the principles of the Council of Europe we have to give that help and encouragement.

7. Amendment

In the draft resolution, paragraph 7A iii (1) add after "those" the words "prosecuted or".

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

7 May 1984

BIL-1

Doc. 5208

PARLIAMENTARY ASSEMBLY

REPORT

on the situation in Turkey (1)

(Rapporteur : Mr STEINER)

I. DRAFT RESOLUTION

presented by the Political Affairs Committee (2)

The Assembly,

1. Having examined the report of its Political Affairs Committee (Doc. 5208) and the opinion of its Legal Affairs Committee (Doc.), which give an account of the fact-finding mission carried out in Turkey by its delegation from 25 to 28 April 1984 ;
 2. Recalling its previous positions, in particular its Resolution 803 (1983) ;
 3. Considering that the timetable drawn up by the previous military government for a return towards democracy has been formally respected ;
- (1) See Resolution 803 (1983)
- (2) Adopted by the Committee on 6 May 1984 by 14 votes to 0 and 9 abstentions.
- (2) Members of the Committee : MM Baumel (Chairman), Reddemann (Alternate : Kittelmann) Vice-Chairman, Steiner (Vice-Chairman), Alegre, Alemyr (Alternate : Gustafsson), Beck (Alternate : Oehri), Sir Frederic Bennett, MM van den Bergh (Alternate : Blaauw), Berrier, Björck, Budtz, Cavaliere, Celikbas, Dejardin, Ertl, Flanagan (Alternate : Killilea), Lady Fleming, MM Fourré, Gunter, Hardy, Hengel, Hesele, Inan, Kirkpatrick, de Kwaadsteniet, Kristjansson, Ladas (Alternate : Mrs Catselli), Lied, Martinez, Mendes, Mondino, Richard Müller, Noerens, Lord Reay, MM Schulte, Vecchietti, Voyatzis.

N.B. : The names of those who took part in the vote are underlined.

Secretaries of the committee : MM Massie and Palmieri

84.831

01.33

4. Noting that the polling operations of 6 November 1983 to designate the Grand National Assembly were properly conducted, but that the restrictions placed on parties and on the right of Turkish citizens to stand as candidates limits its democratic character and raised a problem of compatibility with the principles of the Council of Europe Statute, which can only be fully resolved through future elections ;
5. Welcoming the conditions under which the municipal elections of 25 March 1984 took place ;
6. Noting with satisfaction the lifting of martial law in 13 provinces ;
7. Considering nevertheless that the maintenance of martial law for the great majority of the population, which implies the suspension of several rights and liberties, as well as of the separation of powers still presents an obstacle to the full restoration of democracy ;
8. Concerned inter alia about the number of persons convicted and imprisoned for their opinions, about the length of some trials and about prolongation of a situation in which military courts are exercising jurisdiction over areas which should normally fall within the competence of the civil courts ;
9. Particularly regretting that numerous and serious limitations are still placed on the exercise of trade union freedoms in Turkey ;
10. Expressing the wish that freedom of education and conscience be fully respected in Turkey ;
11. Taking note of the decisions of the Turkish Government aimed at dispelling doubts about conditions in prisons and allegations of torture, as well as of the penal sanctions applied to officials who have been found guilty of it, while underlining that it remains concerned by the gravity of the situation, to which the death of several prisoners notably following hunger strikes bears witness ;
12. Welcoming with satisfaction in this connection the proposal of some members of the Grand National Assembly to set up a parliamentary committee to investigate allegations concerning the situation in Turkish prisons ;
13. Concerned at the restrictions to the right of defence which affect both the accused and their lawyers, in particular in the ongoing mass trials ;
14. Concerned by the prosecution brought against an authorised political party which might create a situation where political rights and liberties would not be guaranteed in accordance with the requirements of a democratic society ;

15. Reaffirming its interest in the investigation currently in progress before the European Commission of Human Rights ;
16. Considering that it falls on the Council of Europe to encourage the present process of democratisation, in accordance with the will of the Turkish people and so as to ensure full compatibility with the principles of the Statute of the Council of Europe ;
17. Urges the Turkish authorities :
 - A. to continue the democratic normalisation of the country, bearing in mind the requirements of the Council of Europe's Statute and the European Convention on Human Rights through the following measures, inter alia :
 - i. the abolition of martial law throughout the country, implying the progressive restoration of the full jurisdiction of the civil courts and the abolition of the rule authorising the police authorities to remand an individual in custody for 45 days without contacts with his family or his lawyer ;
 - ii. the abolition at the earliest possible moment, of measures derogating from the European Convention on Human Rights taken under Article 15, such measures being admissible only "to the extent strictly required by the exigencies of the situation" ;
 - iii. an amnesty for those convicted for their opinions ;
 - iv. the full affirmation of political pluralism, trade union freedoms, freedom for political parties, freedom of association and of the press and education in order to ensure free expression of opinion of citizens in the framework of a democratic society ;
 - B. to strive for the respect of human rights :
 - i. by taking a vigorous stand against all cases of torture and of inhuman and degrading treatment ;
 - ii. by improving conditions in prisons ;
 - iii. by thoroughly investigating all allegations of torture and ill-treatment ;
 - iv. by ensuring that each individual's right to have his case heard within a reasonable time limit is respected ;
 - v. by ensuring respect for the rights of the defence ;
18. Expresses the hope that the Turkish Government will accept the compulsory jurisdiction of the Court in accordance with Article 46 of the European Convention on Human Rights ;
19. Instructs its Political and Legal Affairs Committees to continue to follow the evolution of the situation in Turkey and to report back to it, at the latest at the beginning of the 37th session of the Parliamentary Assembly, in the light of the response and concrete action taken by the government and the Grand National Assembly on the basis of this resolution.

II. EXPLANATORY MEMORANDUM

by Mr Steiner

1. The members of the Sub-Committees on the Situation in Turkey of the Political and Legal Affairs Committees (1) who took part in the fact-finding visit to Turkey (25-28 April 1984) returned with different impressions; they are nonetheless agreed on one point: the situation in Turkey has improved in recent months, since there has been noticeable progress towards the restoration of democracy. There is still disagreement on the extent of the progress made and on the relative importance of certain factors. Personally, I should like to stress the positive aspects which we noticed, but also the anxieties which we still feel. On this basis, we shall have to consider how we can help Turkey to find her way back to full democracy, as we understand it in the Council of Europe.

2. In Resolution 803 (1983), adopted approximately one month prior to the elections on 6 November 1983, the Assembly expressed reservations on the representative character of a parliament resulting from elections in which considerable restrictions had been placed on the right of individuals and parties to stand. The Turkish parliament elected in this way presents an anomaly which can only be removed by fresh elections. However, the question of its representative character raises a number of other points:

- the elections themselves were conducted properly, as all the observers have reported;
- municipal elections were held on 25 March 1984 under conditions which leave no room for criticism; in particular, all the parties were allowed to stand;
- the results of the municipal elections show that the government in power enjoys vast popular support.

In stressing these factors, I am not forgetting the role which oppositions must play within parliaments and I am not unaware that genuinely democratic elections would allow the opposition to be represented in the Turkish parliament today by other parties. It must be stressed, however, that these parties are not themselves calling for fresh elections in the near future. The country has other priorities, particularly the need to surmount an alarming economic crisis and, as far as the opposition parties are concerned, the need to reorganise throughout the country in preparation for the responsibilities which the democratic process may bring their way in the future.

3. It is true that genuine democracy is also compounded of various freedoms (freedom of political parties, trade unions, the press, education, etc), which form the basis of political pluralism. Martial law - which was recently lifted in 13 provinces but which still applies to the great majority of the population - forms an obstacle to the full restoration of democracy since it involves the suspension of certain rights and freedoms. Martial law was originally regarded as

(1) The following took part:

- For the Political Affairs Committee: Mr Baumel, Chairman, MM Arbeloa, Beck, van den Bergh, Budtz, Dejardin, Edwards, Fourré, Sir Anthony Grant, MM Inan, Kirkpatrick and Steiner.
- For the Legal Affairs Committee: Mr Elmquist, Chairman, MM Altug, Apenes, Berrier, Burke, Cardia, Cavaliere, Dreyfus-Schmidt, Guntern, Schwarz, Sir Dudley Smith, Mr Stoffelen.

a necessary measure to control terrorism. Now that this aim has been all but achieved, we are entitled to ask the Turkish authorities to consider lifting it throughout the country. Of course, this may be done gradually, depending on the level of public safety secured in the various provinces. However, we must insist on the lifting of measures which derogate from the European Convention on Human Rights under Article 15. We must not forget that, under the convention, these measures are only permitted "to the extent strictly required by the exigencies of the situation".

4. Since 12 September 1980, a great many people have been convicted on political charges under the criminal laws at present in force. The military courts, which are empowered to hear these cases under martial law and in accordance with the requirements of a military regime which is seeking to combat terrorism, have interpreted these laws in an exaggeratedly literal manner, in the eyes of democrats. We hope, not only that this interpretation will change, but also that an amnesty will be granted to all those convicted on these charges. In the same connection, we want to see restoration of the full jurisdiction of the civil courts and abolition of the rule which allows the police to hold individuals in custody for 45 days without access to family or lawyers.

5. The human rights situation - which the Assembly rightly sees as being of prime importance - is not affected only by the maintenance of martial law for the great majority of the population. Article 3 of the European Convention on Human Rights states that no-one shall be subjected to torture or to inhuman or degrading treatment - and we should remember that this right is not open to derogation under Article 15. There have been numerous allegations of torture and maltreatment in recent months. The delegation which visited Turkey paid great attention to this matter. In this connection, I should like to stress that the Turkish Government, by allowing delegations of parliamentarians to visit the military prisons at Mamak (Ankara) and Diyarbakir, showed a measure of goodwill which we can only note with satisfaction. Such a short visit does not allow us to say with certainty whether torture has been systematically practised in Turkey or merely in isolated cases by individuals acting against orders. However, we have been given assurances, backed by figures, that the Turkish Government is investigating all allegations of torture and that those found guilty have been punished in accordance with the law. We also have the impression that the Turkish Government is sensitive to the problem of torture and, in general, to prison conditions, and is trying to make all-round improvements in a situation which is, admittedly, unsatisfactory. It has appointed a commission to investigate prisons and initiatives will be undertaken in the Grand National Assembly. We know that several of its members intend to suggest the setting-up of a parliamentary commission to examine allegations concerning the situation in prisons. I should like to underline the dynamic role which the Turkish Grand National Assembly could play here. As parliamentarians, we ourselves have a duty to encourage it to do so.

6. There are other problems regarding respect for human rights which deserve to be emphasised:

- the length of certain trials would seem to exceed the "reasonable time" specified in Article 6 (1) of the European Convention on Human Rights;
- conversations with lawyers have shown that the rights of the defence are still restricted in certain mass trials currently in progress;

- legal action has been taken against the True Path Party, accused of being the successor of one of the parties in existence before 12 September 1980, which are prohibited by the new Constitution: any action of this kind threatens the rights and freedoms of political parties, which Turkey is bound to guarantee under the European Convention on Human Rights;
- in universities, the activities of the YOK (Higher Education Council) would seem prejudicial to freedom of education and of conscience.

7. The Assembly is still following the current proceedings before the European Commission of Human Rights with great interest. In this connection, it might usefully express the wish that Turkey should accept the compulsory jurisdiction of the court in accordance with Article 46 of the convention, so that the commission's report could be sent to the court.

8. There are still many negative aspects in Turkey. Only the government and the Grand National Assembly can resolve them. We must encourage them and, for this purpose, we must keep the problem of the situation in Turkey on our agenda and discuss it again not later than the beginning of our 37th session. We hope that the progress which we have noted since the elections on 6 November 1983 will continue and that solutions matching the concerns reflected in the draft resolution will be found. We are convinced - as are nearly all Turkish politicians - that Turkey's membership of the Council of Europe and the fruitful dialogue to which it can give rise both at ministerial and parliamentary level can help to secure the full restoration and subsequent maintenance of democracy in Turkey.

APPENDIX : Report from the delegations of the Sub-committees on the situation in Turkey of the Political Affairs Committee and Legal Affairs Committees having visited the military prisons of Mamak (Ankara) and Diyarbakir.

A. Visit of a delegation to the Diyarbakir military prison on
27 April 1984

Members: Mr Elmquist, Chairman of the Legal Affairs Committee (Denmark)
Mr Dejardin (Belgium)
Mr Guntern (Switzerland)

Mr Elmquist, Chairman of the Legal Affairs Committee, gave an account of the visit to the Diyarbakir prison, by a delegation comprising Mr Dejardin, Mr Guntern and himself, on 27 April 1984.

The group left Ankara at 8.00 in the morning on board a small military aircraft which took them to Diyarbakir, about 950 km east of Ankara. They were accompanied by a representative of the foreign ministry, who interpreted from Turkish into French, and a representative of the headquarters of the armed forces.

The visit was arranged by the Turkish authorities who had met the two sub-committees in the afternoon of Thursday, 26 April. The members of the sub-committees had been given written material containing a list, attributed to Amnesty International, of 17 persons said to have died in Turkish prisons. According to the Turkish authorities all these persons, with the exception of one who had died since the list had been published, were still alive. A few hours later the Turkish authorities said that a delegation might go to Diyarbakir and Mamak the following day, not only to visit the prisons but also to meet prisoners, whereupon the sub-committees appointed delegations to Mamak and Diyarbakir.

At Diyarbakir the group was met by the chief of staff of the 7th army corps and the legal adviser of that corps, together with the prison director and officials. First, it was informed of the situation in Diyarbakir, at the seat of the military administration. Martial law had been introduced in this part of Turkey in 1979, well before the "generals" had seized power. Since then, 7,100 persons have been held in the Diyarbakir military prison. They have been arrested by the police, acting under the responsibility of the military authorities. For the first 30 days following their arrest they are detained in local police stations in the six regions of Diyarbakir. When their interrogation has been completed and their files prepared, they are sent on to the military centre at Diyarbakir. All further interrogations are then conducted before the judge advocate. Of the 7,100 persons held at Diyarbakir, 100 have been acquitted and 100 sentenced to terms longer and more severe than their periods of remand; 71 death sentences have been pronounced but none carried out. Under the legislation now in force the death sentence can be carried out only if it has been confirmed by the parliament. Of the remaining 6,900 persons, 1,506 are now in the Diyarbakir military prison, and the other 5,300 have been sentenced to terms shorter than their period of remand, and have therefore been released.

According to information provided by the Diyarbakir military authorities, the prisoners are "Marxist-Leninist communists" and "separatists", that is, persons who have been fighting for an independent Kurdish state. On their own admission, they are "professional revolutionaries".

Mr Elmquist gave the military authorities a list of names of persons said to have died by Turks exiled in Scandinavia. The Turkish authorities said that Mr Necmettin Büyükkaya died on 24 January 1984 of a brain tumor. Mr Yilmaz Demir committed suicide on 19 January 1983 and Mr Remzi Aytürk on 25 January 1984. Mr Ahmet Bayik was imprisoned at Diyarbakir but is now in Ankara. Mr Hikmet Yildirim was released on 30 May 1984. Mr Salik Havak and Mr Halit Çatak have never been in Diyarbakir. Mr Cemal Arat and Mr Orhan Keskin died in Diyarbakir during a hunger strike early in 1984.

After an extremely strict security check the group was allowed inside the prison. The Diyarbakir prison was built in 1980 to hold 300 persons, but 1,506 prisoners are being held in it now. The workshops have been transformed into dormitories. The prisoners, who wear "uniforms" composed of a blue coat and trousers in heavy cotton, live in "rooms" containing 25 to 80 beds. The group was able to see some of the facilities. 95% of both prisoners and their military guards are 20-25 years old. There are a few older prisoners, including Mr Mehdi Zana, the former mayor of Diyarbakir, who is 45. With two or three exceptions the prisoners appeared to be in good physical condition and well nourished, and could be distinguished from their guards only by uniforms.

The tour of the facilities and dormitories was conducted by the military authorities. The group had asked to meet Ms Cahide Sener, Mr Kemal Kilic, Mr Yildirim Merkit, Mr Kemal Dogan, Mr Ahmet Öğretmen, Mr Karabet Demirci, as well as Mr Mehdi Zana, the former mayor of Diyarbakir, and Mr Isfendiyar Eyüpoglu and other persons on a list brought from Copenhagen. In an office, in the presence of the commanding officer, the judge advocate, two prison officials, the representative of the foreign ministry in Ankara and the major representing the armed forces headquarters, the group spoke to eight prisoners. The representative of the foreign ministry interpreted. One of the eight prisoners, whose name was not on the list, was Mr Suhin Donmez, said to be "often mentioned in the press in the West as among the dead". Mr Kemal Kilic had already left the prison. Mr Donmez and four other prisoners said they were charged with being active members of the Kurdish Party. Questioned in the presence of the prison director and the other persons mentioned, five prisoners said they had not been tortured, three that they had. Of the latter Ms Cahide Sener, 23 years old, was on the list attributed to Amnesty International. She was arrested on 2 March 1981 and is charged with being a member of the Kurdish Communist Party. When asked whether she was aware that her name was on this list of persons said to have died, she answered that the Turkish press had come to photograph her to prove that she was still alive, and that she had seen the photograph on television a few days later. Another prisoner said he was in the same situation. The members of the group concluded that the persons before them were the ones they had asked to see, although it was extremely difficult to be sure of this. The young woman said she had been tortured in various ways, beaten with chains and billy-clubs and subjected to falaka, or blows on the soles of the feet. For the last five months she had not been tortured, which she attributed to a change in the prison direction in

June 1983; this change was confirmed by the military personnel present. According to her, men prisoners were still being tortured. There were a total of 19 women in the prison.

Mr Zana said he also had been tortured. Arrested on 14 February 1981 he said he had been tortured daily for 17 months until July 1982, both at the Diyarbakir police station and in the military prison: he had been kicked, struck with clubs, subjected to electric shocks, forced to crawl with his chin on the ground, suspended by the feet etc. His torturers were, he said, soldiers, officers and police. These people were no longer in the prison, according to him. Having been informed of this, the judge advocate told him, he alleged, that it had nothing to do with his case. He said he was accused of having travelled in France, of having had contacts with the French Socialist Party and of having gone to Sweden.

The group asked the military personnel why this man had been held for so long. The answer was that he was presumed to have been involved in a vast plot which had still not been fully cleared up: he himself said he had been elected mayor of Diyarbakir as an independent with socialist tendencies and was not in favour of an independent Kurdish state (he qualifies himself as non-separatist). Since being tortured, he said he was deaf in the left ear and had a displaced vertebra and back pain. Other physical marks had disappeared four to six months after he had ceased being tortured in July 1982. He did not know whether torture was going on in Diyarbakir. He said he knew the European Convention of Human Rights but thought it was not being complied with in Turkey at this time.

One member of the group mentioned the possibility that Turkey might be excluded from the Council of Europe, upon which he said, in so many words, "It is useful for nations to be side by side. A break in relations would serve nobody."

Mr Eyüpoğlu appeared on the list which Mr Elmquist had brought from Copenhagen, and was mentioned on it as having disappeared at Diyarbakir. He was said to have been tortured after the hunger strike which had taken place in the prison at the beginning of the year, and nothing had been heard of him since. He appeared to be in poorer condition than the other prisoners and apparently had difficulties with his legs. He said he had disappeared for six weeks, having been hospitalised for treatment of his legs and feet which had been damaged by the falaka. He has now been in touch with his family again.

The group left the prison around 5.30 pm to return to Ankara, as the plane could not fly after nightfall. The conversations with the eight prisoners had lasted two and one-half hours. At the end of the visit the members of the group thanked the Turkish authorities for allowing them to visit Diyarbakir and said they would inform their colleagues in the Parliamentary Assembly of the Council of Europe of what they had learned, and would make it public.

B. Visit of a delegation of the sub-committees to Mamak (near Ankara)
on Friday 27 April 1984 (afternoon)

Members: Mr Baumel, Chairman of the Political Affairs Committee
Mr Stoffelen; Rapporteur for the Legal Affairs Committee
Sir Anthony Grant

Mr Baumel, Chairman of the Political Affairs Committee, gave a short account of the group's visit to the Mamak military prison, which is inside a military base about 40 kilometers from Ankara. The group was received by General Salbri Yirmibesoglu and his deputies, the prison director and a number of officers. After a brief statement the group, accompanied by the general's deputy, the prison director and a few officers, entered the military prison, which is inside the military base.

According to the explanations given the group, only terrorists are held at Mamak; there are no "intellectuals", journalists or teachers. The visit was long enough only to gather impressions, rather than make observations. The group, guided by the prison authorities, visited the kitchen which is used for prisoners and soldiers, alike, all of whom eat the same food. After seeing all the prison outbuildings, namely the laundry, medical services, infirmary and prisoners' canteen, the group saw the prisoners' accommodations - first briefly, the women's dormitory, then that of the men which is next to it but divided by massive grills. In a 15-bed dormitory there were 13 prisoners guarded by quite young soldiers. The clothing worn by guards and prisoners is of comparable quality. At the doors to some of the dormitories stood civilian guards representing the civilian authority, and the group was particularly struck by this.

Questions were asked concerning visits by relatives and lawyers. The prisoners were said to be allowed to see them twice a week. The group saw a series of small cells in which the prisoner can talk to visitors through a grill without leaving the premises. There is a special room nearby for legal counsel.

1,353 prisoners are being held on remand at Mamak. There is some turnover, thus. The group was able to speak to some prisoners, but too briefly. One young man of 26, a student of economic science who came from a region far from Ankara, belonged to an illegal extreme right-wing organisation. He said he had been there for three-and-a-half years. A second prisoner, a manual worker from a much more modest background, was accused of using bombs and firearms. He belonged to an extreme left-wing organisation. These prisoners appeared to be in good health but were noticeably intimidated. The group was struck by the length of the periods of remand, three or three-and-a-half years in many cases. This is said to be because of an investigation that affects several hundred accused. Pre-trial investigations in Turkey are extremely lengthy, moreover, in civil cases as well. Further, there are only two or three judge advocates to handle extremely complicated and massive files.

Mr Stoffelen referred to the affirmation of Mr Baumel concerning the number of prisoners in Mamak (1,353). He said that the prisoners were all detained in custody on the basis of Article 146 which prohibits attempts by force to change the Constitution in whole or in part or to hinder the functioning of parliament. It also prohibits advocating, encouraging or helping such action, whether one does so in writing, orally or by affixing posters. In that military detention house there was no person who could be described as a political prisoner because they were all accused of committing violent actions or being responsible for that.

Mr Stoffelen remarked that they could not observe any irregularity in treatment. In particular they asked the inmates for complaints. They did not mention any special complaint. One of the two inmates they met was 22 years old. He was in custody for slightly more than three and a half years and was the head of a youth organisation. He was not accused of committing violent action but just of being the leader of the youth organisation. He was arrested when he was 19. The youth organisation was affiliated with the National Action Party and that party is supposed to be not just illegal but violent too. Because he was himself not accused of any violent action he pleaded not guilty. The other person was accused of planting bombs and shooting in certain houses. He pleaded not guilty too. The first person belonged to a right wing party, the second to the party of revolution.

Mr Stoffelen presented three conclusions. The first one was that apparently all prisoners were well fed but at the same time he found them rather pale and that the look in their eyes was not optimistic at all, one could say depressed, very depressed. The second point was the lack of free contacts between lawyers and detainees. There is always a military person present and that is not according to our European customs, traditions and rules. Both inmates they met were in custody for three and a half years and did not expect that their trial would come to a sentence within one year.

Mr Stoffelen concluded that in any case, whatever the reason may be, a period of three and a half years to be in custody, if there is a trial, four and a half years, is long and not in accordance with the normal rules.

Sir Anthony Grant confirmed everything that Mr Baumel and Mr Stoffelen said, while only adding some points.

First of all, he said that unlike Mr Elmquist's group, they weren't searched when they arrived at the prison. They merely followed the officers who took them round. Like their colleagues he thought that the prison was very efficiently run. The conditions there were rather better than when he joined the British Army several years ago in the barracks there, and like Mr Elmquist he found difficult at first in distinguishing between the soldiers, the young soldiers, and the prisoners because they seemed very similar to him in health and physique and in everything else.

Sir Anthony Grant refereed to the affirmations of Mr Stoffelen deploring that detainees were unable to see their relatives or their lawyers in a "confessional" room with grill without having an official present. He added that there was a grill down when they see their relatives but the grill is open when they see their lawyer.

About the two prisoners whom they saw he confirmed entirely what his colleagues had said. The first young man was 22 years old and was a student. He came from Adana. He was described as a student but Sir Anthony Grant thought he was rather a professional young politician. He asked him if there was anything he wanted to tell the delegation and he said no, only to thank them for coming to see them and to say that the truth about Turkey is not being told to the rest of the world, and hoped it would be.

The second man, the labouring man of the left wing, was 26 years old. He was on trial for firing a machine gun into a cafe or a house. He asked him if he was pleading guilty or not guilty and he said he was pleading not guilty. He also asked him where did he get the guns from? The answer he got was rather curious. He said it was customary for all families to have weapons to defend themselves at that time. This man lived in the suburbs of Ankara; Sir Anthony Grant thought it was rather unnecessary to have a machine gun to guard his family in the suburbs of Ankara.

In this prison also, as well as the terrorists who were all in for crimes of violence, there were some 450 in for smuggling drugs but the delegation didn't see any of them.

Finally he said he saw some very scruffy looking people in civilian dress and he wondered who they were. He thought they were prisoners who had just come in and he was told that they were the civilian guards and he thought they were the least impressive of all. He thought they looked very disreputable. On the other hand he thought that the military guards were quite smart and well disciplined.

**AVRUPA KONSEYİ 34. PARLAMENTER ASSAMBLESI NEDENİYLE YAPILAN
BASIN TOPLANTISI AÇIKLAMASI**

Avrupa Konseyi Sarayı, Strasbourg, 26 Eylül 1983.

Feridun Aksın Gazeteci **Paris**

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Nafiz Bostancı Genel — İş Marmara bölge temsilcisi **Londra**

Mehmet Boz IGD Merkez Yönetim Kurulu üyesi **Basel**

Enis Coşkun Türkiye Barış Komitesi Genel Sekreteri **Paris**

Sıtkı Coşkun Bank — Sen Genel Başkan yardımcısı **Kopenhag**

Yücel Çubukçu Bank-Sen Genel Sekreteri **Amsterdam**

Kemal Daysal DISK Yürütme Kurulu üyesi **Paris**

Metin Denizmen Bank-Sen Genel Başkanı **Rotterdam**

Bahtiyar Erkul Maden-İş Sendikası Genel Başkan vekili **Frankfurt**

Ahmet Erol İş Müfettişleri Derneği Genel Başkanı **Stokholm**

İlhan Geçit Bank-Sen Yürütme Kurulu üyesi **Amsterdam**

Halûk Tan İpekçi IGD Merkez Yönetim Kurulu üyesi **Kopenhag**

Mehmet Karaca Maden-İş Sendikası Genel Başkanı ve DISK Yönetim Kurulu üyesi **Paris**

Cemal Kırıl Maden-İş Sendikası Ege merkez temsilcisi **Atina**

Cevdet Kocaman Köy-Koop 2. Başkanı **Kopenhag**

Alâattin Kılıç Bank-Sen Genel Başkan yardımcısı **Kopenhag**

Zülâl Kılıç IKD Genel Sekreteri **Kopenhag**

Mahmut Mengüllüoğlu IGD Merkez Yönetim Kurulu üyesi **Paris**

Eşref Okumuş Petkim-İş Sendikası Yürütme Kurulu üyesi **Rotterdam**

Beria Onger IKD Genel Başkanı **Kopenhag**

Recep Orduseven Bank-Sen Yürütme Kurulu üyesi **Rotterdam**

Akat Sağiner Bank-Sen Yürütme Kurulu üyesi **Stokholm**

Ahmet Muhtar Sökücü IGD Genel Başkanı **Paris**

Alâattin Taş IGD Genel Sekreteri **Atina**

Murat Tokmak DISK Yönetim Kurulu üyesi **Hamburg**

Enver Türkoğlu Bank-Sen Yürütme Kurulu üyesi **Stokholm**

Süleyman Üstün Maden-İş Sendikası Eğitim Dairesi müdürü **Batı Berlin**

Abdullah Yılmaz Maden-İş Sendikası Ankara bölge temsilcisi **Londra**

Sayın basın mensupları, Bayanlar, Baylar,

Türkiye'de 6 Kasım günü bir genel seçim yapılacaktır. İşbaşındaki askersel yönetim böylece demokratik bir rejime dönülmekte olduğunu söylemektedir.

Biz, 12 Eylül 1980 askersel devirmesi sonunda yurtdışına çıkan ve çeşitli Avrupa ülkelerinde politik göçmen olan Türkiye demokratik yığın ve sendikal örgüt yöneticileri olarak gerçeğin, cuntanın söylediği gibi olup olmadığı konusunda sizleri somut verilerle bilgilendirmek için bu basın konferansına katılmaktayız.

Ekte sunduğumuz ayrıntılı dökümanda da anlatıldığı üzere 3 yıl önce ülkede terörü önlemek gerekçesiyle erke el koyan askeri yönetim terörü devlet terörü haline dönüştürmüştür. Çeşitli sıkıyönetim komutanlıklarının açıklamalarına göre 12 Eylül 1980 ile 30 Nisan 1983 tarihleri arasında;

- 1) Mahkemelerden çıkan karar sayısı 32671,
- 2) Politik tutuklular ve hükümlüler sayısı 22.171,
- 3) Ömür boyu hapis cezası ise 148,
- 4) Verilen idam cezası sayısı 126 dir. (Bunların 23'ü infaz edildi.)

Ülkemizin en büyük iki sendikal örgütünden biri olan DİSK'in 74 yöneticisi idam cezası istemiyle yargılanmaktadırlar. Barışsever halkımızın, kendi alanlarında en seçkin kişilerini bünyesinde toplayan Türkiye Barış Komitesi hakkında açılan dava önümüzdeki günlerde sonuçlanacaktır. Salt barış ve silahsızlanma için uğraş verdikleri için bu seçkin kişiler onlarca yıllık ağır hapis cezası tehdidi altında bulunuyorlar.

Türk ve Kürt halklarının çeşitli politik parti ve hareketleri ve demokratik yığın örgütleri hakkında açılan davalar sürmektedir. Bu davalarda istenen idam cezaları toplam 5000'i aşmıştır.

İşkenceler, işkencelerde ölümler, sokaklarda polis kurşunu ile öldürmeler sürmektedir.

Üniversitelerden öğretim üyeleri görevlerinden alınmaktadır. Ülkedeki tüm demokratik, yurtsever ve ilerici kamuoyu üzerinde en ağır baskılar, terörler uygulanmaktadır.

Bütün bunları yaparken cunta, ülkemizi gün günden daha çok Reagan yönetimine bağımlı kılmaktadır. Onun, bölgemize yönelik serüvenci ve tehlikeli savaş planlarında yer almaktadır. İç ve dış politikada izlenen bu çizgi, rejimi giderek gericileştirmiş ve bugün onu niteliksel bir değişmeye uğratarak ülkeye faşist bir rejimi getirmiştir.

7 Kasım 1982 tarihinde halkımızın önüne süngülerin ucuyla konulan ve kabul ettirilen Anayasa'dan sonra artan bir hız ve kapsamla cunta var olan rejimi kalıcılaştıracak bir dizi yasalar ilan etmiştir. Bu yasalar arasında yeralan sendikalar, toplu sözleşme ve grev hakkı yasası, işçi sınıfının bu haklarının özünü boşaltan ağır yasaklamalar içermektedir. D.G.M. yasası ile bugünkü savaş hali usulü hükümleri uygulayan sıkıyönetim mahkemeleri ileriye yönelik olarak kalıcılaştırılıyor.

Siyasi partiler yasasında öngörülen düzenlemelerle bir yandan halkın özgürce siyasi parti kurma ve üye olma hakkı elinden alınmakta, öte yandan kurulacak partilerin cuntaya ve onun eylem ve işkencelerine destekleyen göstermelik partiler olmasının yolları yaratılmaktadır. Nitekim böyle de olmuş; cunta elinde tuttuğu veto yetkisini en geniş biçimde uygulayarak kurulan 14 siyasi partiden yüzlerce kurucu üyeyi veto etmiştir. Büyük Türkiye Partisi'ni doğrudan kapatmıştır.

Hazırlanan seçim yasası ile de genel, demokratik ve gerçek seçimlerin yolunu kapattı. Cuntanın koyduğu tüm barajları aşabilen SODEP ve Doğru Yol partilerinin seçime katılmalarını engelledi. Toplam 627 milletvekili adayını veto etti. 475 Bağımsız adaydan 428'ini seçim dışına attı. Böylece yapılacağı söylenen seçimlere cuntanın denetim ve yönlendirme- sindeki üç parti katılacaktır. Cunta böylece kendi dışındaki partileri ve kişileri tasviye ederek seçime gitmektedir. Üstelik bugün seçime katılmaları önlenen partiler önümüzdeki 5 yıl içinde yapılacak yerel seçimlere katılma olanağına da sahip olamayacaklardır. Çünkü cunta, onlara bunu da yasaklamıştır.

Sayın bayanlar, baylar,

Demokrasiye dönmekte olduğunu iddia eden cunta işte böylesi bir oluşum ortamında 6 Kasım seçimlerini yapma hazırlığı içindedir.

Böylece 6 Kasım'da seçimler yapılsa bile Türkiye'de demokrasiye dönmüş olmayacaktır. Bu seçimlerin göstermelik bir seçim olacağı bellidir.

Türkiye'de cunta yolunu belirlemiş ve kararlı biçimde bu yolda yürümektedir. Ama onun Türkiye'yi sürüklemekte olduğu bu yol, Avrupa halklarının üzerinde bulunduğu yolla çelişmektedir, ona ters düşmektedir. Avrupa topluluğunun kökleşmiş ilkelerini çiğneyerek yürüyen cunta yönetimi halkımız için olduğu kadar, topluluk içinde kabul edilemez, desteklenemez tehlikeli bir konumdadır.

Bu yönetimin Avrupa topluluğu içinde yeri kalmamıştır.

İşte bizler, halkımıza ve insanlığa düşman bu yönetim karşısında ^{açık} tavır alınmasının zorunluluğu ¹ saptamasıyla Avrupa kamuoyuna sesleniyoruz. Henüz vakit varken, bu rejimin kökleşmesini önlemek, halkımızın özgür gerçek bir demokrasiye kavuşması için, Avrupa kamuoyu duyarlı ve sorumlu biçimde tavır almalıdır.

Avrupa kamuoyuna seslenme olanağı sağlayacak bu toplantıyı düzenleyenlere ve toplantıya katılan siz basın mensuplarına ve konuklara nezaketleri ve ilgileri için teşekkür ederiz.

I- Askersel referandum'dan Resmi seimlere...

12 Eylöl 1980'de erki eline alan Milli Güvenlik Konseyi, Anayasa'ya aykırılıkları hiç bir zaman için öne sürölemeyecek, üzerinde tartışma dahi yapılamayacak nitelikte kanun, bildiri, karar, yönetmelik vb. adlarla yayımlanan bir dizi hukuksal düzenlemeleri gerçekleştirdi. "12 Eylöl Hukuku" diye adlandırılabilir bu düzenlemelerle Devletin yapısı yeniden biçimlendirildi. Bugünkü rejimi kalıcılaştıracı bu düzenlemeler, özellikle 7 Kasım 1982 günü yapılan "askersel referandum" dan sonra yeni boyutlar kazandı. Yanısıra niteliksel deęişim ve oluşumlara koşut sosyopolitik yaşamda bir dizi gelişmelere tanık olundu. Şimdi ise askeri yönetim 6 Kasım 1983 günü yapacağı seimlerle demokrasiye dönölmekte olduğunu söylemektedir.

Özgün nitelendirme, yaklaşım ve anlayış farklılıkları olsa da Türkiye'de demokratik bir yönetimin işlerlik kazanmasını isteyen herkesin gündemine bu vesile ile Türkiye sorunu yeniden gelmiş bulunmaktadır.

Bu nedenle tam da 6 Kasım seimleri öncesinde belli başlı örneklemelerle toplumsal yaşamın yasama, yargılama ve yürütme alanlarında ki somut gelişmeleri bir kez daha deęerlendirmek yararlı olacaktır. Böylesi bir deęerlendirme, söylenenler ile yaşam arasındaki bağlantının ne ölçüde çakışmakta olduğunu gösterecek bir işaret olacaktır.

II- 12 Eylöl Anayasası sonrasında çıkarılan başlıca yasalar:

A- SENDİKALAR YASASI:

Anayasaya konulmuş anti-demokratik düzenleme doğrultusunda çıkarılan sendikalar yasası Türkiye'de sendikal hakları onlarca yıl geriye götürerek ağır biçimde kısıtlamıştır.

Sendikaların kuruluşlarına ilişkin sınırlamaların ötesinde, üye olma hakkını da çok daraltmıştır. Daha önce sendikal hakka sahip 500.000 işçi yeni yasa ile bu haktan yoksun kılınmıştır. Üye olmadaki sınırlamada o derece aşırıya gidilmiştir ki, işçilerin öğrenim görme hakları bile ellerinden alınmıştır. Çünkü yasaya göre öğrenim yapmak isteyen, yani öğrenci olacak bir işçi sendika üyesi olamayacaktır. Üye olmanın yanı sıra, üyelikten serbestçe ayrılma hakkı da ağır sınırlamalara uğratılmıştır. Bir işçinin üyelikten ayrılma iradesinin yaşama geçmesi, bu iradesinin açıklanmasını izleyen üç ay sonra geçerli olabilecektir. Böylece bir işçi üye olmak istemediği bir sendikada yasa zoru ile üç ay daha üye olmak zorunda bırakılmaktadır. Bu hükmün en önemli yansıması, iş yerinde yetkili sendikanın saptanması prosedüründe kendisini gösterecektir. Sendika kurma ve yönetim organlarında görev alma hakkı,

o iş kolunda 10 yıllık işçilik kıdemi zorunluğu getirilerek genç işçilerin elinden alınmıştır.

Sendikaların üzerinde idari ve mali devlet denetimi getirilmiştir.

Uluslararası sendikal kuruluşlara üye olma hakkı işkolu sendikaları için tamamen yasaklanmış, konfederasyonlar için ise hükümet izni zorunluğu getirilmiştir. Sendika yöneticilerinden herhangi birinin politik nitelikli bir suçtan mahkumiyeti halinde sendikanın kapatılması öngörülmüştür.

12 Eylül öncesinde yürürlükteki sendikalar yasasında zamanın anayasasına-ki bugünkü askeri yönetimin getirdiği anayasadan çok ileri ve demokratik bir nitelik taşımaktaydı- aykırı görülerek Anayasa Mahkemesi tarafından iptal edilmiş ne kadar demokratik sendikal haklara aykırı düzenlemeler var ise askeri yönetim tarafından yeni sendikalar yasasında yeniden düzenlenmiştir. Hatta daha da öteye gidilmiştir. Örneğin, işçi önderleri seçimlerde aday oldukları zaman sendikadaki görevlerinden uzaklaşmak zorundadırlar. Seçimlerde işçi haklarından yana programı olan bir siyasi parti ya da adayın propagandasını yapamıyacakları gibi onu desteklediklerini bile açıklıyamayacaklardır. Böylece sendikaların politik tavır alma olanakları yasaklanmıştır. Sendikaların üyelerine borç para vermelerine dek, akla gelebilecek ya da gelebilecek pek çok yasaklama ve sınırlamalarla, Türkiye'de sendikal haklar prangalanmıştır.

B- TOPLU İŞ SÖZLEŞMESİ VE GREV YASASI:

7 Mayıs 1983 günü yürürlüğe giren yeni toplu iş sözleşmesi yasası da askersel yönetimin anayasasındaki anti-demokratik düzenlemelerin doğrultusunda, onları daha da ayrıntılı biçimde düzenleyerek pekiştiren bir niteliktedir.

Özellikle 12 Eylül öncesinde Anayasa Mahkemesince eski toplu iş sözleşmesinin anayasaya aykırı bulunduğu ve iptal ettiği kimi düzenlemeleri yeniden getiren, yanı sıra da işverenlerin öteden beri isteye geldikleri düzenlemeleri gerçekleştiren hükümleri içermektedir. Toplu iş sözleşmesinin kapsamını daraltan, yasada düzenlenen hakların üstünde işçi lehine hak sağlanmasını engelleyen, işkolu düzeyinde toplu iş sözleşmesini kaldıran bu yasa toplu iş sözleşmesinin yapılabilmesi koşullarını da olağanüstü güçleştirmiştir. Yasanın toplu iş sözleşmesi yapabilme yetkisini düzenleyen 12. maddeğine göre; bir sendikanın toplu iş sözleşmesi yapabilmesi için öncelikle kurulu bulunduğu işkolunda çalışan işçilerin yüzde onunu üye yapmış olmasının yanı sıra toplu iş sözleşmesi yapmak istediği işyerindeki işçilerin de % 50'sinden 1 fazlasını temsil etmesi zorunludur.

Yasa grev konusunda Anayasadaki kısıtlayıcı düzenlemeyi yinelemektedir. Daha sonra getirdiği düzenlemeler ile de bir yandan grev yapılamayacak işler ve işyerlerini genişletmiş, öte yandan ise grevin yapılabilme koşullarını alabildiğine zorlaştırmıştır.

- kamu kuruluşlarınca yürütülen, itfaiye, temizlik işleri,
 - şehir içi deniz, kara, demiryolu ve diğer raylı toplu yolcu ulaştırma işleri,
 - banka ve noterlik hizmetleri,
 - su, elektrik, havagazı, doğal gaz, petrol sondajı, üretimi, tasfiyesi ve dağıtımı,
 - eğitim ve öğretim kurumlarında ve sağlık işyerlerinde,
 - Milli Savunma Bakanlığı ile Jandarma Genel Komutanlığı ve Sahil Güvenlik Komutanlığınca doğrudan işletilen işyerlerinde,
- grev tamamıyla yasaklanmıştır. Ayrıca olağanüstü hal ilanında ve seferberlik durumunda ise grev hakkı tüm işkolları için kaldırılabilir.

Böylece de fiilen grev hakkı uygulanma ve hele sonuç alıcı bir etkinlikten yoksun soyut bir hak niteliğine döndürülmüştür. Genel grev, dayanışma grevi ve sempati grevi tümüyle yasaklanarak suç sayılmıştır.

C-DEVLET GÜVENLİK MAHKEMELERİ YASASI:

12 Eylül öncesinde Anayasa Mahkemesi tarafından iptal edilmiş ve Türkiye demokratik kamuoyunun tepkisini ve eleştirilerini yoğun biçimde toplamış olan Devlet Güvenlik Mahkemeleri bilindiği gibi askeri yönetimin anayasasında öngörülmüş bulunmaktaydı. Anayasa'nın 7 Kasım 1982 günlü askeri referandum ile kabulünden sonra çıkartılan bir dizi yasa arasında, bu mahkemelerin kuruluş, görev ve işleyişini düzenleyen yasa da bulunmaktadır.

DGM yasasına göre bu mahkemeler;

- a) İdeolojik nitelikte sayılan düşünce suçları,
 - b) Anayasa'nın 120. maddesi gereğince olağanüstü hal ilan edilen bölgelerde, olağanüstü hal ilanına neden olan olaylara ilişkin suçları,
 - c) Devletin ülkesi ve milleti ile bölünmez bütünlüğü, hür demokratik düzen ve nitelikleri anayasa'da belirtilen cumhuriyet aleyhine işlenen, doğrudan devletin iç ve dış güvenliği aleyhine işlenen suçları diye tanımlanan suçları,
 - d) Toplantı ve gösteri yürüyüşü, toplu iş sözleşmesi ve grev yasası, dernekler ve telsiz yasasında yazılı suçları,
- yargılamakla görevli olacaklardır.

Görüldüğü gibi bu mahkemelerin görev alanı çok geniş tutulmuş bulunmakta ve bu haliyle yargı birliği ve bütünlüğü ilkesini çığnemektedir.

Yasa, 14. maddesinde anayasanın 17. maddesinin son paragrafındaki düzenlemeye koştur olarak güvenlik kuvvetlerine " zor kullanmak " adı altında yasal öldürme hakkı tanımaktadır. Gene aynı madda kolluk kuvvetlerine; soruşturma ve kovuşturma sebebiyle, sanığı, tanığı, bilirkişiyi ve suçtan zarar gören şahsı, DGM yetkililerinin emriyle zor kullanma yetkisiyle belirtilen gün ve saatte ve yerde hazır bulundurma görevi vermektedir. Böylece bir soruşturmanın sanığından, tanığına, bilirkişisinden suçtan zarar görenine dek tüm ilgililerini zor kullanmanın kapsamı içine almaktadır. Gene bu yasa savunma hakkını tümüyle yok edecek kısıtlamaları içeren usul hükümlerini taşımaktadır. Bu haliyle bugün sıkıyönetim mahkemelerindeki savaş hali usulü hükümleri olağan dönemde DGM'deki yargılamalar açısından kalıcılaştırılıp süregenleştirilmektedir. Böylece DGM'ler geleceğin sivil ve olağanüstü mahkemeleri olarak öngörülmüş bulunmaktadır. Bu mahkemeler, askersel yönetim dönemini geçirmekte olduğu söylenen demokratik dönemde sürdürecektir kurumlar olacaktır.

D-SÜRGÜN YASASI:

Cunta anayasasının 23. maddesinde " yerleşme hürriyeti, suç işlenmesini önlemek, sosyal ve ekonomik gelişmeyi sağlamak, sağlıklı ve düzenli kentleşmeyi gerçekleştirmek ve kamu mallarını korumak amacıyla kanunla sınırlandırılabilir" hükmü yer almaktadır.

Madde de belirtilen nedenlerle yerleşme özgürlüğünün sınırlandırılması, aslında bu özgürlüğün tümüyle yok edilmesi demektir.

Nitekim, siyasi gelişmeyi önlemek amacıyla yeni kurulan siyasi partilerden Büyük Türkiye Partisi (BTP) 31.5.1983 tarihinde kapatılmış, bazı yöneticileri ile birlikte aralarında Süleyman Demirel'in de bulunduğu 16 eski CHP ve AP Milletvekili Çanakkale'de " zorunlu ikamete" gönderilmişlerdir.

Bu uygulamadan üç gün sonra da " Şüpheli ya da Kamu düzeni bakımından zararlı faaliyette bulunanların 5 yılı geçmemek üzere Sıkıyönetim bölgesinden çıkartılabileceklerine " ilişkin yasa kabul edilmiş ve 4.6.1983 günlü Resmi Gazetede yayınlanarak yürürlüğe girmiştir.

Yasada, 5 yılı geçmemek üzere sıkıyönetim bölgesi dışında İçişleri Bakanlığınca belirlenecek yerlerde ZORUNLU İKAMETE TABİ TUTULACAK kişiler şu şekilde sıralanmaktadır.

-Kamu düzeni, devlet kuvvetleri, kişi hürriyeti, kamu selameti aleyhine

- işlenen cürümlerle adam öldürmek ya da kişilere karşı müessir fiil de bulunmak suçlarından hükümlü bulunanlar,
-Genel emniyet gözetimi altında olanlar,
-Sıkıyönetim bölgesinde belirli bir ikameti olmayanlar,
-Şüpheli ya da genel güvenlik ve kamu düzeni bakımından zararlı faaliyette bulundukları anlaşılanlar,

Maddeye göre kişilerin suçlu olup olmamasının herhangi bir önemi yoktur. Kuşku veya zararlı olmasının anlaşılması yeterli bir nedendir. Zorunlu ikamete tabi tutulanların herhangi bir itiraz hakları da sözkonusu değildir. Ve bu uygulama işçi, memur, öğretim üyeleri, eski politikacı, eski partili, kısaca cuntanın zararlı gördüğü tüm kişiler hakkında uygulanmaktadır. Örneğin Ankara Üniversitesi Fen Fakültesi eski dekanı Edirne'de zorunlu ikamete tabi tutulmuştur.

İnsanların yerleşme özgürlüğünün dahi olmadığı bir ülkede, özgürce oy kullanmadan ve özgün bir seçimden söz etmek olanaksızdır.

E-SİYASİ PARTİLER YASASI:

Öncelikle yasa, parti kurma hakkının özünü sınırlamaktadır. Yasaya göre sosyal demokrat, sosyalist, komünist ve başka her türlü sol nitelikli partinin kurulması yasaklanmıştır.

Demokratik rejimlerde, vatandaşların politik partilere üye olma hak ve özgürlükleri temel bir ilkedir. Neki, askeri yönetimin çıkardığı siyasi partiler yasası vatandaşlar arasında ayırım yapmakta, büyük bir çoğunluğun temel hak ve özgürlüğünü elinden almaktadır. Gerçekten, yasanın 11.maddesi örneğin; Yüksek Öğrenim Kurulu üyelerinin, bankaların aylıklı ve yevmiyeli personelini, öğrencileri, duvarlara politik içerikli afiş asmak ya da yazı yazmaktan mahkum olmuş kişilerin, kamu kurum ve kuruluşlarının memurlarını diğer benzeri birçok kesimden vatandaşın yanısıra politik partileri üye olmalarını yasaklamış bulunmaktadır.

Askeri yönetim, kendi koyduğu bu yasal sınırlama ile bile tatmin olmayarak uygulamada kurulacak partilerin bu yasaklamalar dışında kalanlardan her başvuruda bulunanı üye yapmamalarını istemektedir. Nitekim, General Evren 16 Mayıs 1983 tarihinde yaptığı bir konuşmasında "her önüne geleni partiye kayıt etmemelerini" işaret etmektedir.

Siyasi partilerin kurulması ve özellikle onların en doğal hak ve görevleri olan seçimlere girmeleri ağır koşullara bağlanmıştır. O kadar ki, yasanın amacının siyasi parti kurulmasını önlemek, kurulan engelleri her nasılsa aşabilmişse kurulan olursa seçime katılmasını önlemek olduğunu söylemek

pek de yanlış sayılmayabilir. Nitekim General Evren 22 Temmuz 1983 günü Kırşehir'de yaptığı bir konuşmasında amacın bu olduğunu şu sözlerinde açıklamış oluyordu: "Bu kadar kısa süre de parti kurmak, 34 ilde ve ilçelerinde örgütlenerek seçimlere katılmak güç iştir. Bütün bu çalışmalar için maddi kaynak, yani para gereklidir. Bunlar bu parayı nereden bulacaklar? Bu güçlülere rağmen bugüne kadar 14 parti kuruldu. Bu kadar partinin kurulacağını biz aklımızdan bile geçirmiyorduk. Bu kadar gruplaşmaya, partiye tahammülümüz yoktur.

Yasa, siyasi partilerin faaliyetlerini sıkı bir yasaklar zinciri ile çevirmiştir. Buna göre örneğin siyasi partiler; "Türkiye Cumhuriyeti ülkesi üzerinde milli veya dini kültür veya mezhep veya ırk veya dil farklılığına dayanan azınlıklar bulunduğunu ileri" süremeyeceklerdir. Hiç kuşku yokki böylesi bir yasak maddi dünyayı yok sayan bir anlayışın ürünüdür. Her ülkede azınlıklar ve bu azınlıkları ayırdeden nesnel özellikler vardır. Bunun aksini savunmak demek onları ortadan kaldırmak amacını taşır. Bu neden, bu madde Kürt ulusuna yönelik bir soykırım amacının yasal zeminini hazırlamaktadır. Ki bu tam da Hitler'in dünya görüşünün bir yansımasıdır. Elbette bu dünya görüşünü demokratik dünya görüşü ile bağdaştırmak olanaklı değildir. Oysa bilindiği gibi Türkiye çok uluslu ve çeşitli mezheplerin bulunduğu bir ülkedir. Türkiye nüfusunun 1/5'ini Kürt ulusu oluşturmaktadır.

Yasa bu yasaklama zincirinin bir halkasında da siyasi partilerin en doğal hakları olan seçim koalisyonlarını önlemektedir. Çünkü yasaya göre hiçbir parti tüzük ve programı dışında faaliyette bulunamayacağı gibi SEÇİMLERDE BİR BAŞKA PARTİYİ DESTEKLEME KARARI DA ALAMAYACAKTIR. Gene yasa 91.maddesinde siyasi partilerin kadın ya da gençlik seksiyonu (kolu) kuramayacaklarını söylemektedir. Ayrıca yasa 12 Eylül 1980 askersel devirmesi ile o tarihten beri süregelen uygulamaları eleştirmeyi siyasi partileri yasaklayarak, ancak askeri yönetimin destekçisi olan partilerin kurulabilmesini öngörmüş bulunmaktadır.

Siyasi partilerin kapatılması konusunda da yasa anti-demokratik ilkeleri taşımaktadır. Herhangi bir işlem ya da eylemi hakkında verilmiş bir mahkeme kararı olmaksızın salt Cumhuriyet Başsavcısının istemi ile parti yönetimi kimi yöneticilerini görevlerinden çekmek yükümlülüğü altına sokulmuştur. Bu yükümlülüğünü yerine getirmeyen parti hakkında salt bu nedenle kapatma davası açılabilir.

Öte yandan yasa, askeri yönetime bir partinin kurucularını hiç bir sebep göstermeksizin kurucu saymama (veto etme) hakkını vermiştir. Nitekim bu yetkiye dayanarak askeri yönetim parti kurucusu olanlardan 500 civarında kişiyi veto etmiştir.

Böylece demokrasiye dönmekte olduğunu söyleyen Türkiye'deki askeri yönetim işte böylesi anti-demokratik bir siyasi partiler yasası çıkarmıştır.

F-SEÇİM YASASI:

Siyasi partiler yasası ile birlikte bir de seçim yasası çıkarılmıştır. General Evren 1 Haziran 1983 günü Çorum'da yaptığı konuşmasında "Gerekirse seçimlerde ilan edilen tarınten sonraya bırakılabilir" dediği 6 Kasım genel seçimlerine bir dizi anti-demokratik baskıcı düzenleme ve yasaklamayı içeren bu seçim yasası ile hazırlanmaktadır.

Seçim yasası 11. maddesinde milletvekili seçilemeyecek olanları düzenlemektedir. Buna göre, örneğin Türk ceza yasasındaki Mussolini ceza yasasından tercüme edilmiş düşünce suçlarından (ünlü 141-142. maddeler) mahkum olanlar ile politik içerikli afiş asmak suçundan mahkum olanlar milletvekili seçilemeyeceklerdir. Üstelik bu kişiler affa uğramış olsalar bile milletvekili seçilemeyeceklerdir. Ama 1960 yılında gerçekleştirilmiş askeri devirmenin askeri mahkemelerinde vatana ihanetten mahkum olmuş kimi politikacılar cunta ile uzlaştıkları için bu yasaklamanın dışında tutulmuşlardır. Bu amaçla askeri yönetim 91 sayılı bir bildiri yayınlamıştır. Gene yasanın geçici 12. maddesiyle sıkıyönetim komutanlıklarının istemleriyle işten çıkarılmış olanlar 5 yıl süreyle milletvekili seçimine katılamayacaklardır. Böylece askeri yönetim 12 Eylül devirmesinden bu yana bu yolla işten atılmış yüzbinlerce vatandaşa milletvekili seçilebilme olanağının kapılarını kapatmış, onları bu siyasi haklarından yoksun kılarak cezalandırmıştır. Bu kişiler ilk genel seçimlerde oy kullanma haklarından da yoksun kılınmışlardır. Oy verme hakları ellerinden alınanlar arasında tutuklu olanlar da yer almaktadır. Böylece demokratik seçimin bir temel ilkesi; seçimlerin genel olması ilkesi ihlal edilmiştir.

Seçim yasası değişken bir baraj sistemi benimsemiştir. Öncelikle ülke çapında % 10'luk bir baraj kabul edilmiş, bu barajın altında oy alan siyasi partiler milletvekili çıkaramaz hükmü getirilmiştir. Böylece bir ilde oyların tamamını da kazansa bir parti eğer ülke çapında bu barajı aşamamış ise seçimi kazındığı halde kaybetmiş olacaktır. Bunun yanı sıra bir ilde kullananlar geçerli oy sayısının çıkarılacak milletvekili sayısına bölünmesiyle elde edilecek barajı aşamayan parti ülke düzeyinde % 10'luk barajı aşsa bile o ilde milletvekili çıkaramayacaktır. Bu sistem bazı iller açısından barajı % 10'un çok üstüne çıkarabilme olanağını getirmektedir. Nitekim, 6 Kasım seçimlerine katılacak Anavatan Partisi Genel Başkan yardımcısı bu düzenlemeyi eleştirerek bu hükümle barajın bazı illerde % 50'yi bulacağını söylemiştir.

Bütün bunların dışında milletvekili adaylarının adaylıklarının geçerliliği- de ancak askeri yönetimin onaylamasıyla olanaklı olacaktır. Askeri yönetimi onaylamayacağı bir kimse aday olamayacaktır. Bu hükmün açık anlamı, yapılacak seçimlerin demokratik ve gerçek bir genel seçim olmayacağıdır. Askeri yönetim böylece seçimli bir parlamentoyu değil, şimdiki danışma meclisinde olduğu gibi atamalı bir meclisi öngörmektedir. Halkta bu oluşumda figüran yapılmak istenmektedir.

III-SORUŞTURMA -YARGILAMALAR:

12 Eylül 1980'den bu yana yürütülmekte olan yığinsal soruşturma ve yargılamalar sürmektedir.

A-SENDİKA DAVALARI:

>2 yöneticisi hakkında idam istemiyle açılmış bulunan DİSK davası, hakların da idam istenen yeni sanıtların katılımı ile giderek genişletilerek sürdürülmektedir. Bu davada idamı istenen sendikacı sayısı 74'e varmış bulunmaktadır. Yargılama koşulları daha da ağırlaşmakta ve şiddetlenmektedir. Yargılanan sendikacılar gerek tutuk evinde, gerek mahkemede ve gerekse birinden diğerine götürülüp getirilişlerinde kötü muamele görmektedirler. Tüm başvuruları yanıtsız bırakılmakta, dahası DİSK başkanı Abdullah Baştürk mart 1983 tarihinde mahkemeye verdiği dilekçesinde tutukluluk koşullarını şöyle dile getirmektedir." 18 kişi olarak tıklandığımız ve doktorların "yaşam için tehlikelidir" dediği hücrelerde hava almak son derece zordur. Pencereilerin baktığı havalandırma avlusuna kurum ve gaz boşaltan üç bacanın dumanları nedeniyle yattığımız hücrede yavaş yavaş ölüm tehlikesi içindeyiz. Haftada 10 dakika toplam 60 dakika havalandırmaya çıkarılıyoruz. Normal doktor kontrolü ise 10 günde bir mazgal deliğinden tutuklunun yüzüne bakılarak yapılmaktadır. Aranma, arkadan zincire vurulma, onur kırıcı davranış ve sözler tahammülü zor olaylardandır. Dilerim tarih idam istemiyle ve suçsuz yere yargılanan sendikacıların mahkeme sonuçlanmadan ceza evinde öldüklerinde tanık olmaz"

Bu dilekçeyi verdikten bir süre sonra mahkeme bir başka vesileyle Abdullah Baştürk'ün duruşma inzibatını bozduğu gerekçesiyle 7 gün süreyle hücre cezası ile cezalandırılmasını kararlaştırdı. DİSK davasının yanısıra, DİSK'e bağlı sendikalar hakkında da davalar açılmaya başlanmıştır. Bu davalarda tüm sendika yöneticileri hakkında 20 yıla varan çeşitli hapis cezaları istenmektedir.

B-SİYASİ PARTİLER ÜZERİNDEKİ DAVALAR:

12 Eylül öncesinde yasal çalışma içinde bulunan Türkiye İşçi Partisi ve Türkiye Sosyalist İşçi Partileri hakkında yöneticilerinin 15 yıla kadar

hapisleri istenerek davalar açılmıştır. Bu davalar halen sürmektedir.

12 Eylül öncesinde de Türkiye'de üzerindeki yasağın sürmekte olduğu Türkiye Komünist Partisi hakkında da açılmış davalar sürmektedir.

Milli Selamet Partisi hakkında açılmış davada henüz kesin karara bağlanmamış bulunmaktadır.

Milliyetçi Hareket Partisi davası sürmektedir. Bu davada Kahramanmaraş katliamından sorumlu olmadığı kararı verildi.

Bunların dışında gene 12 Eylül öncesinde üzerindeki yasaklamanın sürdüğü Türkiye Kürdistan Sosyalist Partisi ve Kürdistan Öncü İşçi Partisi hakları da ağır cezalar istemli davalar açılmıştır.

Aynı şekilde öteki sol politik hareketler içinde illegal parti oldukları gerekçeleriyle bazılarında onlarca ve hatta Fatsa örneğinde görüldüğü gibi yüzlerce idam istemiyle davalar açılmış, böylece sürmekte olan politik davalarda idam istemleri 5000'i aşmıştır.

C-DEMOKRATİK KAMUOYU VE KİTLE DERNEKLERİ HAKKINDAKİ DAVALAR:

Başta TÖB-DER olmak üzere kimi örgütler hakkında açılan davalar, bu arada sonuçlandırılmış, 5 ila 15 yıl arasında cezalar verilmiştir.

Kimi demokratik örgütler hakkındaki davalar ya yeni açılmış ya da halen sonuçlandırılmamış bulunmaktadır. İlerici Gençler Derneği ile İlerici Kadınlar Derneği hakkında açılan davaların yargılamaları yeni başlamış bulunmaktadır. Bu davalarda da 5 yıldan 15 yıla dek değişen cezalar istenmektedir.

D-TÜRKİYE YAZARLAR SENDİKASI DAVASI:

Aralarında Türkiye'nin uluslararası şöhrete sahip en değerli yazarların da bulunduğu seçkin yazın adamları hakkında da 5-15 yıl arasında değişen hapis istemli açılmış dava devam etmektedir.

E-TÜRKİYE BARIŞ KOMİTESİ DAVASI:

Emekli büyükelçi Mahmut Dikerdem'in başkanı olduğu Türkiye Barış Komitesi hakkındaki davada sonuna gelmiş bulunmaktadır. Bu davada barışseverler askeri mahkemede savaş hali usulü hükümlerine göre yargılanmaktadırlar. Haklarında 8 ila 15 yıl arasında ceza istenen barışseverler arasında 4'ü CHP üyesi 1'i bağımsız olmak üzere 5 milletvekili, İstanbul Barosu başkanı Orhan Apaydın, profesörler, Fakülte dekanları, doktor, mühendis, avukat, yazar, ressam, şair, Tiyatro ve Sinema sanatçıları, öğretmenler yani top-

lumun kendi alanlarında en seçkin kişilikleri yargılanmaktadır.Savunma hakları kısıtlanmıştır.Kanser hastası olan büyükelçi Dikerdem'in tedavisi için talepleri kabul edilmemektedir.Ayağı alçıda olduğu ve mutlak yatak istirahatini içeren doktor raporuna rağmen şair Ataol Behramoğlu'nun duruşmaya zorla getirilmesi için karar veren bir mahkeme heyeti davayı görmektedir.Ressam Orhan Taylan bir başka dava bahane edilerek yeniden tutuklanıp işkence görmektedir.Savunmasını hazırlaması için kendine kalem ve kağıt bil verilmemiştir.

İstanbul Barosu yönetimi hakkında soruşturma açılmıştır.Bunun gibi öteki kimi yasal meslek odaları hakkında da soruşturmalara geçilmiş bulunmaktadır.

F-TUTUKEVİ KOŞULLARI:

Tutukevlerindeki koşullar artık insan hakları tartışmasının da ötesinde, tutukluların yaşamlarının sürdürülebilip sürdürülemediği noktasına gelmiş bulunmaktadır. Tüm başvuruların yanıtsız kalması üzerine İstanbul'da ikibin aşkın tutuklu açlık grevine başvurmuştur. Bu grev sırasında iki tutuklu ölmüş, profesör Yalçın Küçük'de içlerinde olmak üzere komaya girmiş olup halen cezaevi hastanelerinde bulunmaktadır.Ne ki tutukevi koşullarında hala bir düzelme görülmemektedir.

Şu günlerde aynı gerekçeyle Diyarbakır tutukevinde de yığinsal bir açlık grevi eylemi sürmektedir.

COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1982

REPORT

SUBMITTED TO THE

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AND

COMMITTEE ON FOREIGN AFFAIRS
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BY THE

DEPARTMENT OF STATE

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c. Torture

1009

The Turkish criminal code and the new Constitution, as well as that of 1961, forbid torture and prescribe severe punishment for violators. In March 1982, the Turkish Government issued a statement that "The September 12 (military) administration has been careful to stay within the rules of law. In spite of this, from time to time, instances of torture occur. The Government of the Republic of Turkey never approved of, and is not torturing those arrested and closely investigated every instance."

Some light is cast on the incidence of torture and the Government's efforts to halt it by the most recent Turkish report on anti-terrorist activities, issued in October 1982, which states that 540 allegations concerning torture or mistreatment of prisoners have come under investigation since the September 1980 military takeover. Through October 4, 1982, of these, 316 cases are continuing grounds; 37 cases have been referred to the courts for prosecution; 16 cases have been dismissed as continuing are under arrest in such cases; 76 persons are at liberty pending completion of their cases; 34 have been acquitted; and 15 have been convicted. Further, according to the report, between September 12, 1980, and October 4, 1982, shows four persons to have died as a result of torture and 70 deaths from other causes. Investigations and judicial proceedings in 117 cases concerning these allegations are under way, and cases either for torture or mistreatment of prisoners in 117 opened against 108 security personnel. The present Government is believed to be the first in Turkish history publicly to admit that torture—a practice that existed under past civilian regimes—had occurred and to punish offenders. A recent example of government efforts to punish those involved in torture was the sentencing, announced in early December, of five Izmir policemen to 26-month terms.

In January 1982, Amnesty International issued a report that 70 persons had died from torture since the advent of the military regime. In March, the Turkish Government replied to Amnesty's presentation, admitting that 15 persons had died of torture and accounting for the others on the Amnesty International list. According to the Government statement, eleven cases in connection with the matter were under way while three cases, resulting in prison terms for nine security officers, had been completed. In a related development, the Minister of Justice announced reforms in penal administration, including special training for guards and other prison personnel.

Allegations of torture at Istanbul's Metris military prison in June 1982 and elsewhere continue to be made. Amnesty International, the Council of Europe, and others have expressed concern over such reports. Torture does not seem to be tacitly condoned by the authorities. Turkish authorities have continued to investigate allegations of torture and publish their updated findings.

d. Cruel, Inhuman, or Degrading Treatment or Punishment

The 1982 Constitution closely follows the 1961 Constitution in stipulating that "no punishment or ill-treatment incompatible with the Constitution is permitted."

-11-

G-İŞKENCELER VE ÖLDÜRMELER:

12 Eylül'den beri süre gelen işkence uygulamasında herhengi bir azalma olmadığı görülmektedir. İşkenceler sırasında kimi sanıklar öldürülmektedir. Bunlar bazen aile ve yakınlarına bile haber verilmeden gizlice gömülmektedir. Böyle bir olay tam da 7 Kasım referandumundan sonra cereyan etmiş genç bir ekonomist Mustafa Hayrullahoğlu işkencede öldürülerek İstanbul'da gizlice gömülmüştür. Olay işkence kurbanının ailesi tarafından ısrarla sürdürülen araştırma sonunda açığa çıkarılmıştır.

İşkencelerin yapılmakta olduğu, hem resmi hükümet raporlarından ve sözcülerinin beyanlarından, hem çeşitli yargı kararları ile duruşmalar sırasında yargılananların anlatımlarından ve hem de çeşitli dış ülke ve uluslararası hükümetler dışı örgütlerin raporlarından anlaşılmaktadır.

1V-YÜRÜTME:

A)YÖK-SIKIYÖNETİM İŞBİRLİĞİYLE,

12 Eylül 1980'den itibaren sıkıyönetim komutanlıklarınca "sakıncalı" görülen işçi, memur, öğretmen, müfettiş, öğretim görevlisi ve üyesi, idareci (kaymakam, vali, genel müdür vs.) 50.000 in üzerinde görevlinin işlerine sıkıyönetim komutanlıklarınca son verilmiştir.Bu sayı gün geçtikçe artmaktadır.

Son aylarda üniversitelerden 2000 in üzerinde öğretim üyesi ve (profesör, doçent, asistan) öğretim görevlisinin görevlerine son verilmiştir. Yapılan baskılar sonucunda bazı öğretim üyeleride istifa etmek zorunda kalmışlardır.

Örneğin, Temmuz 1983'de Erzurum Atatürk Üniversitesi, Marmara Üniversitesi ve Uludağ Üniversitesinden 269 öğretim görevlisinin, ağustos 1983 ayının başında İlahiyet Fakültesi, Uludağ Üniversitesinden toplam 28, Gazi Eğitim Enstitüsünden de 170 olmak üzere 198 öğretim görevlisinin işlerine son verilmiştir.

Yüksek Öğretim Kurulu (YÖK) yasasına dayanılarak görevlerine son verilen ve istifa zorunda bırakılan bazı profesör, doçentlerin isimleri şunlardır.

- 1.Prof.Yakup Kepenek"Ortadoğu Teknik Üniversitesi"
- 2.Doç.Cemal Koçun " " " " "
- 3,Prof.Oya Silier "Boğaziçi Üniversitesi"
- 4.Prof. Metin Özek "İstanbul Tıp Fakültesi"
- 5.Prof.Tuncer Bulutay"Siyasal Bilgiler Fakültesi"
- 6.Prof.Burhan Cahit Önal"Fen Fakültesi"
- 7.Prof.Yalçın Küçük"Gazi Eğitim Enstitüsü"
- 8.Prof.Erdem Aksoy"Karadeniz Teknik Ünevirsitise eski rektörü"
- 9.Prof.Özgönül Aksoy" " " " "
- 10.Doç.Tahsin Yılmaz"Ege Üniversitesi"

11.
İSTİFA EDENLER:

- 1.Prof.Bahri Savcı"Ankara Üniversitesi"
- 2.Prof.Tarık Zafer Tunaya"İstanbul Üniversitesi"
- 3.Doç.Kemal Soybaşlı
- 4.Doç.Sadık Baklacioğlu
- 5.Prof.Oya Tuncer"Ege Tıp Fakültesi"
- 6.Prof.Süleyman Çetineroglu" Ege Üniversitesi"
- 7.Doç.Bülent Himmetoğlu" " " "
- 8.Doç.Ercan Kızılay " " " "

- 9.Doç.İlber Oltaylı"Siyasal Bilgiler Fakültesi"
- 10.Doç.Hasan Ersel " " " " "
- 11.Doç.Fazıl Sağlam" " " " "
- 12.Doç.Şevket Pamuk" " " " "
- 13.Doç.Şehmuz Güzel" " " " "
- 14.Doç.Çağlar Kesder"ODTÜ"
- 15.Orhan Kurmuş " " "
- 16.Doç.Güntaş Özler "
- 17.Doç.Yılmaz Öztürk "İstanbul Basın Yayın Yüksek Okulu"

Ayrıca sadece Haziran 1983 ayında 50'ye yakın kaymakam bu görevlerinden alınarak memurluğa atanmış, 11'Kaymakam ve Vali muavinlerinin görevlerine son verilmiştir.Görevlerine son verilen bazı vali muavinleri:

- 1.Mustafa Korkmaz Dinçer "Konya Valiliği Hukuk İşleri Müdürü"
- 2.Halep Ceviroğlu"Ordu Vali Muavini"
- 3.Aziz Sevinç"Nevşehir Vali Muavini"
- 4.Selahattin Eren"Balıkesir Vali Muavini"
- 5.Osman Nuri Egoğe"Mardin Valiliği Hukuk İşleri Müdürü"
- 6.Nihat Öner"Amasya Valiliği Hukuk İşleri Müdürü"

Ayrıca, kamu kuruluşlarından ve özel sektörden binlerce işçinin ve kamu kurumlarında çalışan binlerce memurun(öğretmen, genel müdür, polis ve müfettişlerin) görevlerine son verilmiştir. Örneğin sadece Çalışma Bakanlığında 4 genel müdür yardımcısının 100'e yakın iş müfettişinin işine son verilmiştir.

Görevlerine son verilen binlerce işçi ve memurun bir daha kamu hizmeti yapamayacaklarına ilişkin yasada, Ocak 1983 ayında yürürlüğe girmiştir.Böylece binlerce kişi bir daha kamu hizmeti yapamayacağı gibi "sakıncalı" oldukları gerekçesiyle özel sektörde de çalışamayacaklardır.Böylece tüm devlet kademelerine seçilmiş yerel yöneticilerin yerine emekli subay ve assubaylar yerleştirilmektedir.Bu suretle tüm devlet kurumları militaristleştirilmektedir. Bunun yanısıra yeni bir kararname çıkarılarak başta barolar olmak üzere tüm bağımsız meslek kuruluşları hükümete doğrudan bağımlı kılınmışlardır.

B-SİYASİ PARTİLERİN KURULUŞUNDAN SEÇİME DOĞRU GİDEN YOLDAKİ SON GELİŞMELER:

Siyasi partilerin kuruluşu sırasında askersel yönetim yasada sözü edilen kurucu üyeler hakkında inceleme yapma ve veto etme yetkisini en geniş biçimde kullanmıştır.Böylece kurulan siyasi partilerin kurucu üyelerinden 500'e yakın kişi veto edilmiştir.Bunların arasında Türkiye Cumhuriyetinin kurucularından İsmet İnönü'nün oğlu Prof.Erdal İnönü ki yeni kurulan SODEP'

in başkanıydı, 12 Mart 1971 askersel yönetim döneminin bakanlarından ve günümüzde Türkiye Barolar Birliğinin başkanı Atilla Sav gibi birçok kişi bulunmaktadır. Bu vetoların toplumda yarattığı hoşnutsuzluğun yanısıra veto edilenlerinde kişisel olarak kırılganlıkları karşısında General Evren bir konuşmasında vetoların kişisel özelliklerden değil, politik nedenlerden ötürü olduğunu açıklamıştır.

Siyasi partilerin kurulması aşamasında askeri yönetim ile ters konumlara düşen, aralarında eski Başbakan Süleyman Demirel, Dışişleri Bakanlarından İ. Sabri Çağlayangil, CHP Bakanlarından Deniz Baykal gibi 16 eski parlamenter gözaltına alınarak Çanakkale'ye sürgüne gönderildiler.

Kurulan 15 politik partiden Büyük Türkiye Partisi Demirel'in Partisi'nin devamı olduğu gerekçesiyle askeri yönetim tarafından kapatıldı. Sürdürülen vetolar sonucunda tanınan süre içinde ancak 5 parti seçime katılmak için öngörülen sayıda ilde örgütlenebildi. Bunlardan SODEP ve Doğru Yol partilerinin kurucu üyeleri veto edilmeye devam edilerek öngörülen süre içinde seçime katılabilmeleri için gerekli kurucu üye sayısına ulaşmaları açıkça engellenmiş oldu. Böylece seçime, askeri yönetimin kabul ettiği 3 Partiye ancak seçime katılma olanağı tanınmış oldu. Bu partilerden MDP'nin başkanı cuntaya mensup bir emekli generaldir. Ana-VP başkanı cunta hükümetinde ekonomik işlerden sorumlu başbakan yardımcısı olarak görev yapmış bir kişidir. H.P. başkanı ise cunta hükümetinin başbakanının müsteşarıdır. Bu üç partide cuntanın organizasyonlarıdır.

Bu uygulamanın kamu vicdanında onay bulduğunu söylemenin zorluğu bir yana yapılacağı söylenen 6 Kasım seçimlerinin meşruiyetine en hafif deyimle gölge düşürmüştüğü muhakkaktır.

Seçime katılacak siyasi partilerin askeri yönetim tarafından böylece saptanmasından sonra seçim hazırlıklarına geçildi. Partiler seçime katılacak adaylarını saptayarak başvuruda bulundular. Askeri yönetim bu adaylar üzerinde yaptığı ilk incelemesinin sonunda toplam 672 adayın veto etmiş bulunmaktadır. Bu durumda 6 Kasım'da yapılacak seçimlerin sonucunda Parlamenta girecek yeni milletvekillerinin şeklen seçilmiş kişiler olsa da gerçekte askeri yönetimin atadığı kişilerden olacağı görülmektedir. Vetolarda ağırlıklı bağımsız adaylar hedeflenmiştir. 475 bağımsız adayın 428'i veto edilmiştir. Böyle olunca da 6 Kasım seçimlerinin demokratik, genel seçimler diye tanımlamak olanaklı olmayacaktır. Bu seçim gerçek seçim değil resmi seçim olacaktır.

V-SONUÇ:

7 Kasım referandumundan sonra şimdi Türkiye yeniden bir başka kilometre taşına gelmiş bulunmaktadır. Askeri yönetimin uygulamalarından ortaya çıkan durumu değerlendirmede yukarıda sıraladığımız veriler bir fikir vermeye elverişli, yeterlidirler.

Şimdi Türkiye'de yeni bir durum vardır. Artık Türkiye bir yol ağzında değildir. Bu verilerin somut olarak gösterdiği tek şey askeri yönetimin kendi yolunu seçmiş ve o yolda ısrarlı biçimde yürümekte olduğudur. Bu yol Türkiye'de faşist bir rejimi kurumlaştırmaktadır. Türkiye'nin bu yönetim altında çekilip sürüklenmekte olduğu yol, kuşku yokki üyesi olduğu Avrupa halklarının üzerinde bulundukları yol değildir. Avrupa Konseyi ilkeleri ile kesin çelişmektedir.

Türkiye'de örnekleriyle özetlediğimiz bu son gelişmeler karşısında Avrupa Konseyi yürürlükteki ilkeleri ve statüsüyle tutarlı kalacaksa Türkiye'nin bu yönetim altında Avrupa Konseyi üyeliği devam ettirilmemelidir.

TÜRKİYE SOSYAL TARİH

COUNCIL
OF EUROPE



CONSEIL
DE L'EUROPE

PARLIAMENTARY ASSEMBLY

ASSEMBLÉE PARLEMENTAIRE

XENOPHOBIC ATTITUDES AND MOVEMENTS
WITH REGARD TO MIGRANT WORKERS

ATTITUDES ET MOUVEMENTS XÉNOPHOBES
A L'ÉGARD DES TRAVAILLEURS MIGRANTS

Report
of the Committee on Migration, Refugees and Demography

Rapport
de la Commission des migrations, des réfugiés et de la démographie

(Rapporteur: Richard MÜLLER)

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

THIRTY-FIFTH ORDINARY SESSION

RECOMMENDATION 968 (1983)¹

*on xenophobic attitudes and movements
in member countries
with regard to migrant workers*

The Assembly,

1. Noting the appearance of xenophobic attitudes and movements in various member countries of the Council of Europe, sometimes taking the form of acts of violence with dramatic consequences ;

2. Observing that those xenophobic attitudes and movements have been considerably aggravated by the rise in unemployment resulting from the economic recession affecting most of the member countries ;

3. Noting that the aggravation of such movements is also sustained by allegations :

a. of an economic nature : foreign workers are said to be taking jobs which could go to nationals ;

b. of a social nature : foreign workers and their families are said to be enjoying social benefits financed by nationals and occupying housing, which could be allocated to nationals ;

c. of a moral nature : foreign workers are said to be the reason for the increase in violence and delinquency ;

d. of an educational nature : the children of foreign workers are said to be holding up the normal progress of the classes they attend ;

4. Affirming that these allegations are unfair since they take no account of factors determining the situation of migrant workers or of the rights

1. *Assembly debate* on 27 September 1983 (11th Sitting) (see Doc. 5107, report of the Committee on Migration, Refugees and Demography).

Text adopted by the Assembly on 27 September 1983 (11th Sitting).

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

TRENTE-CINQUIÈME SESSION ORDINAIRE

RECOMMANDATION 968 (1983)¹

*relative aux attitudes et mouvements xénophobes
dans les pays membres
à l'égard des travailleurs migrants*

L'Assemblée,

1. Constatant l'apparition d'attitudes et de mouvements xénophobes dans différents pays membres du Conseil de l'Europe, qui se traduisent parfois par des actes de violence aux conséquences dramatiques ;

2. Constatant que ces attitudes et ces mouvements xénophobes ont été considérablement aggravés par le développement du chômage résultant de la récession économique qui sévit dans la plupart de ces pays ;

3. Constatant que l'aggravation de ces mouvements est en outre nourrie par des griefs :

a. d'ordre économique : les travailleurs étrangers accaparaient les possibilités d'emploi qui pourraient revenir aux autochtones ;

b. d'ordre social : les travailleurs étrangers et leurs familles bénéficieraient d'avantages sociaux financés par les autochtones et de logements qui pourraient être attribués aux autochtones ;

c. d'ordre moral : les travailleurs étrangers seraient à l'origine de l'accroissement des phénomènes de violence et de délinquance ;

d. d'ordre scolaire : les enfants des travailleurs étrangers constitueraient une entrave à la progression normale de l'ensemble des classes qu'ils fréquentent ;

4. Affirmant que ces griefs sont injustes parce qu'ils ne tiennent pas compte de facteurs déterminant la situation des travailleurs migrants et des

1. *Discussion par l'Assemblée* le 27 septembre 1983 (11^e séance) (voir Doc. 5107, rapport de la commission des migrations, des réfugiés et de la démographie).

Texte adopté par l'Assemblée le 27 septembre 1983 (11^e séance).

defined in the European Convention on the Legal Status of Migrant Workers ;

5. Noting that these allegations are sometimes exploited for electoral purposes to the detriment of the most rudimentary respect of human rights ;

6. Affirming that it is essential to remember, in attempting to take a balanced view of the problems ;

a. the reasons for emigration : firstly, the relative poverty of countries of origin appeared to some extent intolerable when seen against the prosperity of the host countries ; secondly, in times of economic prosperity the host countries have called on foreign labour ;

b. the important role migrant workers have played in the economic development of host countries ;

c. jobs open to migrant workers are not wanted by nationals, either because they are unattractive or because they entail a willingness to move ;

d. the inadequacy and occasional absence of policies to help migrant workers adapt to the language and customs of the host country, settle in decent material conditions and send for their families ;

e. the special difficulties which migrant workers' wives have to contend with, because of their ignorance of the language of the host country and consequent isolation ;

f. the difficulties faced by the children of migrant workers in adapting to the educational system in the host country which, for a number of them, provoke discouragement, rejection and alienation, plus a feeling of rootlessness, so that it is much more difficult for them to return to the country of origin than it is for their parents, and possibly problems caused by those difficulties in the running of schools ;

g. the connection between the shortcomings of these policies and some of their consequences, in particular the creation of conditions which encourage introversion, alienation, the concentration of large numbers in slum areas and delinquency ;

droits qui sont définis dans la Convention européenne relative au statut juridique du travailleur migrant ;

5. Constatant que ces griefs sont parfois exploités à des fins électorales au détriment du respect le plus élémentaire des droits de l'homme ;

6. Affirmant qu'une vision équilibrée des problèmes exigerait que l'on tienne compte :

a. des causes qui ont engendré l'émigration : d'une part, la pauvreté relative des pays d'origine est apparue insupportable dans une certaine mesure par rapport à la prospérité des pays d'accueil ; d'autre part, les pays d'accueil ont, dans les moments de haute conjoncture, fait appel à la main-d'œuvre étrangère ;

b. de la part importante qui a été assumée par les travailleurs migrants dans l'essor économique des pays d'accueil ;

c. du fait que les emplois ouverts aux travailleurs migrants ne sont pas recherchés par les autochtones, soit en raison de leur manque d'attrait, soit parce qu'ils impliquent une disponibilité à la mobilité ;

d. de l'insuffisance et parfois de l'inexistence de politiques visant à faciliter l'adaptation des travailleurs migrants à la langue et aux coutumes des pays d'accueil, à leur implantation dans des conditions matérielles décentes, et au regroupement des familles ;

e. des difficultés particulières auxquelles doivent faire face les épouses des travailleurs migrants qui n'ont aucune connaissance de la langue du pays d'accueil et se trouvent ainsi isolées ;

f. des difficultés d'adaptation des enfants de travailleurs migrants au système scolaire du pays d'accueil, qui, pour un certain nombre d'entre eux, engendrent découragement, rejet et aliénation, ainsi que le déracinement et, par la suite, beaucoup plus de problèmes pour le retour dans le pays d'origine que pour leurs parents, et aussi des éventuels problèmes provoqués par ces difficultés dans le fonctionnement des écoles ;

g. du lien entre les lacunes de ces politiques et certaines conséquences, notamment la création de conditions propices au repli sur soi-même, à l'aliénation, à la concentration de grands nombres dans des zones taudifiées et à la délinquance ;

7. Denouncing the tendency to lay considerable blame on foreigners for delinquency, which is belied by court statistics ;

8. Denouncing the abuse of special status, such as that of seasonal workers, granted to foreign workers who ought to have the benefit of a more favourable status ;

9. Considering :

a. that many of those responsible for the economy in host countries are concerned by the possibility of foreign workers leaving *en masse*, because of their role and numerical importance in various sectors of activity ;

b. that Europe is having to cope with a demographic decline which threatens the normal generation replacement ;

c. that, as a result, the mutual nature of past and future interests should lead xenophobes to reconsider their view of the links between the presence of foreign workers and current difficulties ;

d. that, quite apart from the reciprocity of interests, the respect of rights of all workers, and hence of migrant workers, is required of all countries, particularly European countries signatory to the European Convention on Human Rights and the European Social Charter ;

e. that the formation of multicultural societies within Europe is, by virtue of the fundamental right of freedom of movement, an irreversible and indeed a desirable phenomenon in terms of furthering the European ideal and Europe's world-wide mission ;

f. that flourishing exchanges of all kinds, including economic exchanges, within Europe and between Europe and the other continents depend, as is demonstrated by certain phenomena of rejection of technological civilisation in some parts of the world, on familiarity with the cultures of other peoples ;

g. that the presence of foreign cultural communities within Europe therefore constitutes a very important medium- and long-term asset, provided that policies are carried out which foster open-mindedness and the understanding of differences ;

7. Dénonçant, en ce qui concerne la délinquance, l'attribution aux milieux étrangers d'une responsabilité majeure d'ailleurs démentie par les statistiques judiciaires ;

8. Dénonçant l'utilisation abusive de statuts particuliers, tel celui de saisonnier, accordés à des travailleurs étrangers qui auraient droit à un statut plus avantageux ;

9. Considérant :

a. que de nombreux responsables de l'économie des pays d'accueil s'inquiètent du départ massif éventuel de travailleurs étrangers en raison de leur rôle et de leur nombre dans divers secteurs d'activité ;

b. que l'Europe doit faire face à un déclin démographique dangereux pour le remplacement normal des générations ;

c. que, par conséquent, le caractère mutuel des intérêts passés et futurs devrait amener les xenophobes à revoir leur manière d'apprécier les liens entre la présence des travailleurs étrangers et les difficultés actuelles ;

d. qu'au-delà de la réciprocité des intérêts, le respect des droits de tous les travailleurs, et par conséquent des travailleurs migrants, s'impose à tous les pays, notamment aux pays européens signataires de la Convention européenne des Droits de l'Homme et de la Charte sociale européenne ;

e. que la constitution des sociétés multiculturelles au sein de l'Europe est, en raison du droit fondamental de la liberté de mouvement, un phénomène irréversible et de toute façon souhaitable au plan de la réalisation de l'idéal européen et de la vocation universelle de l'Europe ;

f. que l'épanouissement des échanges de tous ordres, y compris des échanges économiques à l'intérieur de l'Europe et entre l'Europe et les autres continents, dépend, comme le démontrent certains phénomènes de rejet de la civilisation technologique dans certaines régions du monde, d'une bonne connaissance de la culture des autres peuples ;

g. que la présence de communautés culturelles étrangères au sein de l'Europe constitue donc un atout très important à moyen et à long terme, à condition que soient mises en œuvre des politiques créant une ouverture d'esprit et une compréhension des différences ;

10. Believing the development of intercultural understanding, both in schools and in communities, to be a positive and important contribution to the general encouragement of tolerance in Western society and therefore to represent an important objective of education policy in member countries ;
 11. Recalling its Recommendation 963 (1983), on cultural and educational means of reducing violence ;
 12. Recalling its Recommendation 786 (1976), on the educational and cultural development of migrants, and welcoming the attention paid to migrants by the Council for Cultural Co-operation and by the Standing Conference of European Ministers of Education ;
 13. Realising, nonetheless, that the percentage of foreign workers in specific places is so high that it is productive of tension and conflict, for want of adequate structures ;
 14. Believing that migrant workers leave their own countries because they are unable to earn a decent living there, and that an effective policy of aid to the underprivileged areas of Europe and the Third World would accordingly :
 - a. enable more workers from such areas to achieve their ambitions there instead of seeking an uncertain fortune elsewhere ;
 - b. make the task of receiving countries easier by bringing the flow of migrant workers down to levels in keeping with their reception structures and capacities ;
 15. Believing that the countries of origin are also partly responsible for difficulties in the host countries through their failure to take adequate steps to prepare their emigrants for a prolonged stay abroad, merely enjoying the benefit of the lower unemployment level appearing in their own statistics and of the foreign currency remittance from their nationals,
 16. Recommends that the Committee of Ministers :
 - I. invite the governments of the member states :
 - i. to ratify the European Convention on the Legal Status of Migrant Workers and the European Social Charter, if they have not already done so ;
10. Estimant que le développement de la compréhension interculturelle, tant à l'école que dans la communauté, contribue largement et de façon positive à encourager la tolérance dans la société occidentale et représente de ce fait un objectif important de la politique de l'éducation dans les pays membres ;
 11. Rappelant sa Recommandation 963 (1983), relative aux moyens culturels et éducatifs de réduire la violence ;
 12. Rappelant sa Recommandation 786 (1976), relative à l'éducation et au développement culturel des migrants, et se félicitant de l'attention accordée aux migrants par le Conseil de la coopération culturelle et par la Conférence permanente des ministres européens de l'Education ;
 13. Reconnaissant toutefois que, dans des lieux spécifiques, le pourcentage des travailleurs étrangers a atteint des niveaux si élevés que, faute d'encadrement adéquat, il entraîne des tensions et des conflits ;
 14. Estimant que les travailleurs migrants quittent leur pays faute de pouvoir y gagner décemment leur vie et que, par conséquent, une politique efficace d'aide aux régions défavorisées de l'Europe et du tiers monde :
 - a. permettrait à un nombre plus élevé de travailleurs qui en sont originaires de réaliser leurs aspirations chez eux, au lieu de courir après un bonheur incertain ailleurs ;
 - b. faciliterait la tâche des pays d'immigration en ramenant l'afflux des travailleurs migrants à des proportions compatibles avec leurs possibilités et leurs structures d'accueil ;
 15. Estimant que les pays d'origine ont leur part de responsabilité dans les difficultés des pays d'accueil en ne prenant pas les mesures adéquates pour préparer leurs émigrants à un séjour prolongé à l'étranger, et en se limitant à tirer parti de la réduction du taux de leur chômage national et de l'envoi des économies en devises de leurs citoyens,
 16. Recommande au Comité des Ministres :
 - I. d'inviter les gouvernements des Etats membres :
 - i. qui ne l'ont pas encore fait, à ratifier la Convention européenne relative au statut juridique du travailleur migrant et la Charte sociale européenne ;

ii. to work, in the framework of multilateral co-operation at European and international level, for the development of underprivileged areas in Europe and the Third World, so as to reduce the unplanned mass exodus of migrants which contributes to the appearance and continuation of xenophobic movements ;

iii. to take steps against employers who encourage the illegal entry of migrant workers and take advantage of their recruitment, and to see to it that the regulations and legislation governing wages and social rights in force in their countries are applied in full ;

iv. to enact or strictly apply legislation to prevent or punish discriminatory or xenophobic activities ;

v. to promote understanding between the nationals of host countries and foreign workers by :

a. organising a campaign linking the mass media and trade unions and employers' associations to explain objectively the factors which determine emigration, the amount of prejudice and error in the allegations against foreign workers, their contribution to past economic development, their supporting role in the current economic situation, and their contribution to the replacement of generations which, because of present and probably future imbalances, could result in serious social difficulties ;

b. developing bilateral co-operation with a view in particular to :

1. distributing information in the countries of origin on the real employment situation and reception facilities in host countries, in order to prevent ill-considered departures on a mass, unplanned scale ;
2. teaching workers, before their departure, the basics of the language and customs of the host country ;
3. carrying out activities in the host country to enable local public opinion to appreciate the culture of emigration countries and gain a better understanding of the mentality of migrant workers ;
4. carrying out the proposals on migrants' education put forward by the Standing Conference of European Ministers of Education, and in particular the resolution adopted by the conference in Dublin in May 1983 ;

ii. à œuvrer, dans le cadre de la coopération multilatérale au niveau européen et international, pour le développement des régions défavorisées de l'Europe et du tiers monde, de manière à réduire les exodes massifs et non programmés qui contribuent à la naissance et au maintien des mouvements xénophobes ;

iii. à prendre des mesures contre les employeurs qui encouragent l'afflux clandestin de travailleurs migrants et tirent avantage de leur recrutement, et à faire appliquer dans leur intégralité les règlements et lois régissant les salaires et les droits sociaux en vigueur dans leurs pays ;

iv. à élaborer et appliquer de manière rigoureuse des lois tendant à prévenir ou à réprimer les actes discriminatoires ou xénophobes ;

v. à promouvoir la compréhension entre les citoyens du pays d'accueil et les travailleurs étrangers par :

a. l'organisation d'une campagne associant aux *mass media* les fédérations syndicales et patronales en vue de présenter de manière objective les facteurs déterminants de l'émigration, la part de préjugés et d'erreurs dans les griefs adressés aux travailleurs étrangers, leur apport au développement économique passé, leur rôle de soutien dans la situation économique actuelle, et leur contribution au remplacement des générations dont les déséquilibres présents et probablement futurs peuvent engendrer de graves crises sociales ;

b. le développement de la coopération bilatérale, en vue notamment de :

1. diffuser dans les pays d'origine des informations sur la situation réelle de l'emploi et des possibilités d'accueil des pays d'immigration, afin de prévenir des départs inconsidérés, massifs et non programmés ;
2. enseigner aux travailleurs, avant leur départ, les bases de la langue et des coutumes du pays d'accueil ;
3. réaliser dans les pays d'accueil des activités permettant à leur opinion publique d'apprécier la culture des pays d'émigration et de mieux comprendre la mentalité des travailleurs migrants ;
4. de mettre en œuvre les propositions relatives à l'éducation des migrants présentées par la Conférence permanente des ministres européens de l'Éducation, et en particulier la résolution adoptée par la conférence à Dublin en mai 1983 ;

5. making it possible for the spokesmen of these foreign communities to be heard by bodies where their specific problems could, as appropriate, be thrashed out and solved (radio, television, committees for problems facing foreigners, etc.) ;
6. granting priority to those activities aimed at a clear, objective appreciation of the situation of migrant workers and an interpenetration of cultures reaching far beyond folklore and the commonplace, without which the sanctions provided for in paragraph 16.I.iv above could aggravate the emotional situation and make the cure worse than the disease ;

II. make provision at European level for :

- i. a programme of multilateral activities such as the European Prize for the best television programme for the promotion of cultural understanding ;
- ii. an outline programme providing a basis for initiatives to be taken by member states as part of the national campaign recommended in paragraph 16.I.v.a above, and co-ordinating those initiatives.

5. de faire en sorte que des porte-parole de ces communautés étrangères puissent se faire entendre dans des organismes où leurs problèmes spécifiques pourraient, selon le cas, être exposés et résolus (radio, télévision, commissions pour les problèmes des étrangers, etc.) ;

6. accorder la priorité à ces activités visant une appréciation lucide et objective de la situation des travailleurs migrants et une interpénétration des cultures qui aille bien au-delà du folklore et des lieux communs, faute de quoi les mesures répressives envisagées au point 16.I.iv ci-dessus pourraient exacerber les passions et constituer un remède pire que le mal ;

II. de prévoir au niveau européen :

- i. un programme d'activités multilatérales telles que le Prix européen de la meilleure émission télévisée en faveur de la compréhension interculturelle ;
- ii. un programme-cadre susceptible d'inspirer et de coordonner des initiatives qui seraient prises par les Etats membres dans le cadre des campagnes nationales préconisées au point 16.I.v.a ci-dessus.

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

THIRTY-FIFTH ORDINARY SESSION

ORDER No. 420 (1983)¹

*on xenophobic attitudes and movements
in member countries
with regard to migrant workers*

The Assembly

1. Calls on its Committee on Migration, Refugees and Demography to observe carefully the way in which xenophobic movements and attitudes develop in the member countries ;
2. Decides to draw the attention of international public opinion and the media to the conclusions of Recommendation 968 by means of a public event to be held in 1984 and attended by a delegation from the Assembly, representatives of the media and circles directly concerned by the presence of foreigners.

1. Assembly debate on 27 September 1983 (11th Sitting) (see Doc. 5107, report of the Committee on Migration, Refugees and Demography).

Text adopted by the Assembly on 27 September 1983 (11th Sitting).

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

TRENTE-CINQUIÈME SESSION ORDINAIRE

DIRECTIVE N° 420 (1983)¹

*sur les attitudes et mouvements xénophobes
dans les pays membres
à l'égard des travailleurs migrants*

L'Assemblée

1. Charge sa commission des migrations, des réfugiés et de la démographie de suivre avec attention l'évolution des manifestations et attitudes xénophobes dans les pays membres ;
2. Décide de sensibiliser l'opinion publique internationale et les médias à propos des conclusions de la Recommandation 968 par l'organisation en 1984 d'une manifestation publique mettant en présence une délégation de l'Assemblée, des représentants des médias et des milieux directement concernés par la présence des étrangers.

1. Discussion par l'Assemblée le 27 septembre 1983 (11^e séance) (voir Doc. 5107, rapport de la commission des migrations, des réfugiés et de la démographie).

Texte adopté par l'Assemblée le 27 septembre 1983 (11^e séance).

Explanatory memorandum

by Mr Richard MÜLLER

I. Introduction

1. There is a growing intolerance of the presence of migrant workers in large numbers. The foreign population in the Federal Republic of Germany amounts to 4 700 000, in France 4 200 000, in Belgium 900 000 and in Switzerland 925 826.¹ Such concentrations in a region, town or urban district create an explosive situation.

2. In Switzerland foreign migrant workers amount to about 22% of the working population, and are highly concentrated in certain regions. A government bill, advocating the consolidation of acquired rights by migrant workers, which was submitted to a referendum on 6 June 1982, was rejected. The influence of movements hostile to foreigners, which do not constitute the majority of the population, nevertheless produced a hostile climate which explains the failure of the bill; the most recent application for a referendum, which is expected to be launched shortly, makes the following demands: that there should be equality between the number of migrant workers arriving and the number who leave; the possibility of transforming the status of seasonal worker into that of an annual worker should be abolished; all bilateral treaties should be denounced and the total population of the country should be fixed at a figure not exceeding 6 million.

¹ 1. Excluding international civil servants, seasonal and frontier workers.

Exposé des motifs

par M. Richard MÜLLER

I. Introduction

1. La présence des travailleurs migrants est de moins en moins tolérée en Europe, notamment dans les lieux où ils forment des groupements importants. La population étrangère en République Fédérale d'Allemagne, France, Belgique et Suisse s'élève respectivement à 4 700 000, 4 200 000, 900 000, et 925 826¹. Les concentrations dans une région, dans une ville ou dans un quartier, engendrent une situation explosive.

2. En Suisse, les travailleurs migrants étrangers représentent à peu près 22% de la population active, avec de fortes concentrations dans certaines régions. Il y a eu le rejet d'un projet de loi soumis au référendum le 6 juin 1982 qui a préconisé la consolidation des droits acquis par les travailleurs migrants. L'influence de mouvements xénophobes ne représentant pas la majorité de la population a quand même créé un climat hostile qui explique l'échec du projet de loi; la dernière initiative populaire dont le lancement est prévu prochainement demande qu'il y ait équivalence entre le nombre de travailleurs migrants qui arrivent et le nombre de partants, que soit abolie la possibilité de transformation du statut du saisonnier en statut annuel, que soient dénoncés tous les traités bilatéraux, et que l'on fixe un plafond démographique à l'ensemble de la population qui ne devrait pas dépasser 6 millions d'unités.

¹ 1. Sans les fonctionnaires internationaux, les saisonniers et les frontaliers.

3. In other countries one may, for example, mention the street battles in Liverpool, and Brixton, in the London area. Recently in France, and particularly in Corsica, there have been twenty-four attacks on North Africans since June 1982.¹ In Germany a Molotov cocktail thrown into a Vietnamese hostel killed two persons; in Nuremberg in July 1982 a young neo-nazi killed three persons whose only fault was that their skin was not quite as white as his.

4. Such violence, it is true, is happily not to be found in every place where there are foreign workers present, but it constitutes the highwater mark of various types of behaviour which may degenerate and which are, quite rightly, disturbing public authorities at both local and national levels. The reasons for such behaviour are generally known as the press has often given considerable coverage to events connected with manifestations of xenophobia. Our object is to show that what can be explained is not necessarily justified or justifiable and that tensions between immigrants and the local population are in some measure due to short-sighted or inadequate policies, and that a campaign to explain prejudices and errors might improve many situations.

5. I will accordingly deal successively with the causes and effects of xenophobia and the possibility of finding remedies.

II. Causes of Xenophobia

1. Allegations against foreign workers

i. Economic

6. Everyone knows that the degenerating economic situation which has affected the developed countries since 1973 is the root cause of manifestations of xenophobia by the local population. The high level of unemployment has produced a feeling of confusion and pessimism with regard to future prospects; the resulting climate of moral and material depression is—as history shows—favourable to the development of racism because the rejection of people who are different seems to provide a means of defence. Apart from the danger of competition for jobs, the foreign worker is looked on as “sponging on the nation”. *Le Canard enchaîné*, the French satirical paper, cites a speech by a National Front candidate in the local elections in March which is very significant in this respect: “6 million foreigners concentrated in our towns and suburbs are an enormous financial burden for the French tax-payer, a danger to our

3. Dans d'autres pays on peut citer, par exemple, les batailles qui ont fait rage à Liverpool et dans le quartier de Brixton à Londres. Récemment en France, et plus particulièrement en Corse, il y a eu vingt-quatre attentats contre des maghrébins depuis le mois de juin 1982¹. En Allemagne un cocktail Molotov lancé contre un centre vietnamien a tué deux personnes; à Nuremberg en juillet 1982 un jeune néo-nazi tue trois personnes dont le tort était d'avoir la peau moins blanche que la sienne.

4. Certes, cette violence ne se manifeste pas fort heureusement partout où il y a des travailleurs étrangers, mais elle est le point culminant de comportements divers susceptibles de dégénérer et qui, à juste titre, inquiètent les pouvoirs publics tant aux niveaux local que national. Les motifs qui suscitent ces comportements sont généralement connus car la presse a souvent accordé une place importante aux événements liés aux mouvements xénophobes. Notre propos sera de montrer que ce qui s'explique n'est pas forcément justifié ou justifiable, que les tensions entre immigrés et autochtones sont, dans une certaine mesure, dues à des politiques, selon le cas, imprévoyantes ou insuffisantes et qu'une campagne d'élucidation des préjugés et des erreurs pourrait assainir bien des situations.

5. Ainsi nous serons amenés à examiner successivement les causes de la xénophobie, ses effets, les possibilités d'y remédier.

II. Causes de la xénophobie

1. Grievs contre les travailleurs étrangers

i. Grievs de nature économique

6. Comme chacun sait, la dégradation de la situation économique qui sévit dans les pays développés depuis 1973 est à l'origine du développement des comportements xénophobes des autochtones à l'égard des travailleurs étrangers. Le chômage important lié à la crise économique crée un sentiment de désarroi et de pessimisme à l'égard des perspectives d'avenir; le climat de misère morale et matériel qui en résulte est propice — l'histoire en donne des témoignages — au développement du racisme, car le rejet de celui qui est différent apparaît comme un moyen de défense. Outre le danger de concurrence dans l'accès à l'emploi, le travailleur étranger est considéré comme quelqu'un qui vit «aux crochets de la nation». *Le Canard enchaîné*, journal satirique français, cite une déclaration d'un candidat du Front national aux élections municipales de mars dernier particulièrement significative à cet égard:

1. *L'Express*, 25 October 1982.

1. *L'Express*, 25 octobre 1982.

financial security and a threat to our national independence."¹

ii. Cultural

7. Barriers exist between nationals of the same country, which are created by differences in cultural level and are often combined with differences in standards of living since persons from an underprivileged environment are unable to continue their studies after compulsory schooling or do not encounter the necessary motivation or competition in such an environment. In critical situations these differences may bring about misunderstandings which lead to tension or even conflict.
8. The problem becomes more acute in the case of foreign workers. In addition to the differences mentioned above there are problems caused by differences of language and mentality. The acuteness of the rejection phenomenon often depends on the extent of these differences.
9. For instance, the hostility of the host country with regard to foreign workers from Europe is—generally speaking—less violent than with regard to those coming from Africa. This position is naturally qualified by the numerical factor. Large concentrations of a group of European foreign workers may provoke more intolerance than a relatively negligible percentage of non-European foreign workers.
10. Turkish workers in Germany are a special case among European migrant workers. 85% of all Turks having migrated to European countries are to be found in Germany. Because of their specific differences (religion, life-style, etc.), they have more acute communication problems. An article in the weekly *Time*,² dealing with foreign workers in Germany, states that the Turks are particularly difficult to assimilate; whole families are illiterate, incapable of reading a newspaper even in their own language. The children attend German schools but many of them also attend an Islamic school where the teaching is not favourable to integration in a Christian society.
11. This brings us to the schooling problem. Owing to the cultural level of their environment and their poor knowledge of the host country's

«Les six millions d'étrangers concentrés dans nos villes et nos banlieues constituent une énorme charge financière pour les contribuables français, un danger pour notre sécurité financière et une menace pour notre indépendance nationale.¹»

ii. Grievs qui sont déterminés par des raisons culturelles

7. Entre les ressortissants d'un même pays il existe des barrières érigées par les différences de niveau culturel souvent amalgamées avec des différences de niveau de vie, étant donné que les membres de milieux défavorisés ne sont pas en mesure au-delà de l'école obligatoire de «pousser leurs études», ou ne trouvent pas dans ces mêmes milieux les motivations ou l'émulation nécessaires. Dans des situations critiques, ces écarts peuvent engendrer des malentendus qui entraînent des tensions voire des conflits.
8. Ce problème devient plus épineux avec les travailleurs étrangers. Aux différences évoquées plus haut s'ajoutent les problèmes des diversités linguistiques et des mentalités différentes. L'acuité des phénomènes de rejet est souvent fonction du degré des différences.
9. Ainsi l'hostilité des populations des pays d'accueil à l'égard des travailleurs étrangers venant d'Europe est — vue sur le plan global — moins virulente qu'à l'égard des travailleurs en provenance d'Afrique. Cette appréciation doit être naturellement nuancée par le facteur numérique. De grandes concentrations d'un groupe de travailleurs étrangers européens peuvent susciter plus d'intolérance qu'un pourcentage relativement négligeable de travailleurs étrangers non européens.
10. Parmi les travailleurs migrants européens, les travailleurs turcs en Allemagne constituent un cas particulier. Ils représentent 85% de l'ensemble de leurs concitoyens résidant en Europe. Ils ont, de par leurs différences spécifiques (religion, mode de vie, etc.), des problèmes de communication plus accentués. Un article² de la revue hebdomadaire *Time* consacré au problème des travailleurs étrangers en Allemagne précise que les Turcs sont particulièrement difficiles à assimiler; des familles entières sont illettrées, incapables de lire un journal, même dans leur propre langue. Les enfants fréquentent les écoles allemandes, mais beaucoup parmi eux fréquentent également une école islamique où l'enseignement n'est pas favorable à une intégration dans une société chrétienne.
11. Ceci nous amène à parler du problème scolaire. Les enfants des travailleurs migrants ont, en raison du niveau culturel de leur environne-

1. *Le Canard enchaîné* of Wednesday 16 March 1983.

2. *Time*, 30 August 1982.

1. *Le Canard enchaîné* du mercredi 16 mars 1983.

2. *Time*, 30 août 1982.

teaching language, the children of migrant workers have great difficulty in adapting. If the teachers give them the necessary time they are accused of holding up the normal progress of the class as a whole, and schools with high percentages of foreign pupils are accordingly deserted by the local children. This leads to *de facto* segregation.

iii. Social

12. There are naturally connections between the economic, cultural and social aspects of the problems posed and experienced by foreign workers. These are well known and do not require long explanations. Low pay and difficulty in effectively communicating with the local population lead to their occupying very cheap, slum accommodation and choosing public meeting places (bars, squares, stations) where groups of the same race tend to gather. These turn into ghettos where extreme poverty leads to despair and crime. The local population judges these effects without considering the causes and forgets that the same causes produce the same effects in poor areas inhabited by their own countrymen, but we will return to this point in the following section: realities.

13. To the accusation of being a source of danger there is added, that of drawing social benefits which are very expensive for the country. Immigrant families often have numerous children and constitute in the eyes of the local population an excessive burden, a parasitic excrescence.

14. Furthermore, the aspirations of many migrant workers who have taken root in the host country tend, from the second generation, to be identical to those of the local population. This, as Mr Jean le Garrec notes, the immigrant population "is no longer malleable".¹ The awareness of trade union and political rights has developed with the passage of time. This situation has given rise to often violent conflicts.

2. Realities

15. Most of these objections take a virulent form leading to xenophobia and racism because public authorities and the mass media have not undertaken a broadly based campaign to place the facts in a historical context and provide an objective view of the true cause of certain situations.

1. See *Le Monde* of 17 February, 1981. Mr le Garrec wrote this article in his capacity as member of the Executive Bureau of the French Socialist Party; he currently holds the office of Secretary of State attached to the office of the Prime Minister.

ment, de la mauvaise connaissance de la langue véhiculaire du pays d'accueil, de grandes difficultés d'adaptation. Il leur est alors reproché, dans la mesure où l'enseignant leur accorde le temps nécessaire, de freiner la progression normale de l'ensemble de la classe. Des écoles ayant des pourcentages non négligeables d'élèves étrangers se voient alors désertées par les enfants des autochtones. Il en résulte une ségrégation de fait.

iii. Grievs de nature sociale

12. Il y a naturellement des liens entre les aspects économiques, culturels et sociaux des problèmes posés et subis par les travailleurs étrangers. Ces liens sont suffisamment connus et ne nécessitent pas de longues dissertations. La faiblesse des revenus, la difficulté d'une réelle communication avec les autochtones, aboutissent à l'installation dans des logements très bon marché situés dans des quartiers taudifiés et au choix de lieux de rencontre où se forment des groupes de même ethnie. Ceux-ci deviennent des ghettos où le cumul de misère engendre désespoir et délinquance. Ces effets sont jugés indépendamment des causes par les autochtones qui oublient que les mêmes causes engendrent les mêmes effets dans des quartiers pauvres habités par leurs compatriotes, mais nous reviendrons sur ce point à la sous-section suivante: réalités.

13. Au reproche d'atteinte à la sécurité des gens s'ajoute celui de l'accès à des avantages sociaux qui coûtent fort cher à la nation. Les familles immigrées étant souvent des familles nombreuses, elles représentent aux yeux des autochtones une charge excessive, une excroissance parasitaire.

14. En outre, les aspirations de nombreux travailleurs migrants ayant pris racine dans le pays d'accueil à partir de la deuxième génération jusqu'à s'identifier avec les aspirations des autochtones. Ainsi la population immigrée, constate M. Jean le Garrec¹ «n'est plus malléable». La conscience syndicale et politique s'est développée au fil des années. Un tel état de fait a engendré des conflits souvent violents.

2. Réalités

15. La plupart de ces griefs prennent une forme virulente, génératrice de xénophobie et de racisme parce que les autorités publiques et les moyens de communication de masse n'entreprennent pas une action de grande envergure qui situerait les faits dans leur contexte historique, et offrirait une vision objective des responsabilités à l'origine de certaines situations.

1. Voir *Le Monde* du 17 février 1981; l'auteur avait rédigé cet article en sa qualité de membre du Bureau exécutif du parti socialiste français; il est actuellement secrétaire d'Etat auprès du Premier ministre.

i. Economic reasons for the presence of foreign workers

16. It is desirable for public opinion to be informed of the fact that these migrant workers have fled from poverty which is to a certain extent the result of our development. One example among many which is sufficiently familiar to the political circles to whom this report is primarily addressed is the raw materials purchased at particularly low prices by our countries which have made enormous profits by their use in industry. The terms of trade between the developed countries and the developing countries are becoming continuously more unfavourable. Furthermore, the manufactured exports of developing countries to the developed countries encounter barriers when they exceed a certain threshold.

17. Emphasis should also be placed on the fact that the presence of migrant workers in developed countries was not solely caused by the attraction of the latter's prosperity but also because the economic agents of the developed countries felt a need for them, as they were unable to find sufficient labour locally during periods of economic prosperity. Even when the economy is at a low ebb, there are certain jobs which the local population does not want. This is the case in Switzerland with certain kinds of work in the construction of motorways and tunnels, and generally speaking jobs in which workers must be prepared to move from place to place. The Secretary of State to the French Minister for Social Affairs, Mrs Georgina Dufoix, in an interview with *Le Monde*,¹ stated in this connection that: "The number of migrant workers has remained virtually stable since 1974, while unemployment has increased 4,5-fold. Unemployment cannot in any way, then, be laid at the door of the immigrants."

18. In an interview with the Committee on Migration, Refugees and Demography, the representative of the Swiss trade union federation referred to the population gap in his own country during the 1960s, which was also a factor in the use made of foreign manpower.

19. On the other hand, when the situation on the labour market worsens, governments sometimes decide to apply the rules and regulations relating to immigration and employment more strictly. To this we must add—as is the case in Switzerland—a large number of workers whose activities do not depend on the cycle of the seasons, but are nevertheless assimilated into this category.

20. Far from constituting in their entirety dangerous competitors for employment, migrant

i. Raison économique de la présence des travailleurs

16. Il serait opportun de mettre en évidence auprès de l'opinion publique que ces travailleurs migrants ont fui une misère qui est la conséquence de notre développement. Citons un exemple parmi de nombreux autres et suffisamment connu du milieu politique à qui ce rapport s'adresse en premier lieu. Il s'agit des matières premières achetées à des prix particulièrement bas par nos pays qui ont réalisé, à partir de leur exploitation industrielle, d'immenses bénéfices. Les termes d'échange entre les pays développés et les pays en voie de développement continuent de se dégrader. En outre, les produits manufacturés et exportés par les pays en voie de développement se heurtent à des barrières dans la mesure où leur exportation vers les pays développés dépasse un certain seuil.

17. En outre, il faudrait insister sur le fait que la présence des travailleurs migrants dans les pays développés n'a pas seulement été déterminée par l'attrait de leurs situations prospères mais aussi parce que les agents économiques de ces pays en avaient exprimé le besoin, faute de trouver une main-d'œuvre suffisante sur place dans les périodes de haute conjoncture. Même en période de basse conjoncture, il existe de nombreux emplois qui n'intéressent pas les autochtones. C'est le cas en Suisse pour certains travaux relatifs aux constructions d'autoroutes et de tunnels et, d'une manière générale, les travaux exigeant une disponibilité à la mobilité. Le secrétaire d'Etat auprès du ministre des Affaires sociales français, M^{me} Georgina Dufoix, déclarait notamment dans une interview accordée au journal *Le Monde*¹: «Depuis 1974, le nombre des travailleurs immigrés est resté pratiquement stable, alors que le chômage a été multiplié par 4,5. En aucun cas, le chômage ne peut donc être imputé aux immigrés.»

18. Le représentant de l'Union syndicale suisse a fait état, au cours d'une entrevue avec la commission des migrations, des réfugiés et de la démographie, d'un vide démographique dans son pays lors des années 60, qui a également joué un rôle dans le recours à la main-d'œuvre étrangère.

19. Par contre, lorsque la situation se détériore sur le marché de l'emploi, les gouvernements prennent, dans certains cas, la décision d'appliquer d'une manière plus stricte les règles ou les lois en matière d'immigration ou d'emploi. Ajoutons à ceci le cas, par exemple en Suisse, d'un grand nombre de travailleurs dont les activités ne dépendent pas du rythme des saisons, et qui, pourtant, sont assimilés à cette catégorie.

20. Ainsi les travailleurs migrants, loin d'être dans leur totalité des concurrents dangereux

1. Comments reported by Mr J. Benoit, *Le Monde*, 3 August 1983, in an article headed: "Impossible to take in fresh immigrants, states Georgina Dufoix".

1. Propos recueillis par M. J. Benoit, *Le Monde*, 3 août 1983, article intitulé: «Impossible d'accueillir de nouveaux immigrants, nous déclare Georgina Dufoix».

workers may in fact serve as a buffer on the labour market cushioning the effects of the changing economic situation.

ii. *Reasons why cultural problems are acute*

21. Literacy and housing are the key problems for a proper insertion of foreign workers and their families into the society of the host countries. Though the latter encouraged the influx of a greater or lesser number of migrant workers during a period of economic growth, they did not at the time take the steps necessary for their reception and failed to foresee the possible results of the situations which were developing. When steps were taken, they were not adapted to the critical nature of these situations, which therefore continued to deteriorate.

22. Learning the language of the host country is an essential factor, not only to avoid the segregation due to difficulty of communication between the local population and migrant workers, but to enable the latter to have access to legal rights for assistance, training and unemployment benefits. The measures taken in this field in the various countries are of differing utility and in some cases unsatisfactory.

23. As we have seen above, at school the children of migrant workers are considered as a clog on the progress of the local children. But we should first ask whether any account was taken of the specific difficulties of migrant workers' children before bringing them into the host country's school system.

24. The statement by an officer of the school section in the Italian Consulate at Frankfurt, Mrs Pace, cited in an inquiry held in the Federal Republic of Germany, is very significant here: a child starts at the *Hauptschule* in most cases without knowing the (local) language, with the result that he cannot follow the teaching properly. He is then put at a lower level where he has the same difficulties. He then feels that he understands nothing and that the others understand everything. The language difficulty makes him lose all confidence, he feels discriminated against, gets bored at school and becomes unruly or sometimes stays away.¹

25. Still in the Federal Republic, the children of migrant workers who cannot follow are then sent to a *Sonderschule*, a special school for handicapped, blind or deaf and dumb children, as well as spastic children and those suffering from

pour l'accès à l'emploi, peuvent en réalité servir de tampon sur le marché de l'emploi en fonction des aléas de la conjoncture.

ii. *Raisons de l'acuité des problèmes culturels*

21. Les problèmes de l'alphabétisation et du logement sont les problèmes clés d'une bonne insertion des travailleurs étrangers et de leurs familles dans la société des pays d'accueil. Alors que ceux-ci encourageaient l'afflux d'un nombre plus ou moins important de travailleurs migrants au moment de la croissance économique, ils ne prenaient pas en même temps les dispositions nécessaires à leur accueil, ni ne prévoyaient l'évolution possible des situations qui étaient en train de se créer. Lorsque des mesures ont été prises, elles n'étaient pas adaptées au caractère critique de ces situations, qui, de ce fait, ont continué à se détériorer.

22. L'acquisition de la langue du pays d'accueil est un élément d'une importance essentielle non seulement pour éviter la ségrégation résultant de la communication difficile entre autochtones et travailleurs migrants mais aussi pour permettre à ces derniers d'avoir accès aux dispositifs du droit commun (assistance, formation, aide en cas de perte d'emploi). Or, les initiatives prises dans ce domaine dans tel ou tel pays sont de valeur inégale et quelquefois insatisfaisante.

23. Au plan scolaire, comme on l'a vu plus haut, les enfants des travailleurs migrants sont considérés comme un frein pour la progression des autochtones. Mais il convient de se demander au préalable s'il a été tenu compte des difficultés spécifiques des enfants des travailleurs migrants avant de les introduire dans le système scolaire du pays d'accueil.

24. La déclaration d'un responsable de la section scolaire du consulat italien de Francfort, M^{me} Pace, citée dans une enquête menée en République Fédérale d'Allemagne est assez significative à cet égard: l'enfant commence à la *Hauptschule*, dans la plupart des cas, sans connaître la langue (locale), raison pour laquelle il suit mal en classe; il est mis à un niveau inférieur, où il ne réussit pas à suivre non plus. Alors il pense qu'il ne comprend rien, et que les autres comprennent tout. La difficulté linguistique lui fait perdre toute assurance, il se sent discriminé, s'ennuie à l'école, et devient indiscipliné, ou s'absente¹.

25. Alors, toujours dans le cas de la République fédérale, les enfants des travailleurs migrants qui ne peuvent pas suivre sont orientés dans une *Sonderschule*, école spéciale pour handicapés, aveugles, sourds-muets, mongoliens, enfants

1. The title is: "Genitori e figli italiani nella Repubblica Federale Tedesca" (Italian parents and children in the Federal Republic of Germany).

1. Titre de l'article: «Genitori et figli italiani nella Repubblica Federale Tedesca».

Downes' Syndrome and pupils having difficulty in adapting to school. In this last category, the children of migrants constitute the majority. Only a minority, 30%, return to the normal school system. With these methods, 70% (including a majority of migrants' children) do not succeed in overcoming the specific causes of their maladjustment.

iii. *Reasons why the social problems are so acute*

26. We have seen that unemployment is one of the decisive factors in the rejection phenomenon experienced by migrant workers. The local population regards unemployment as a consequence of the presence of immigrants. Nevertheless, unemployment has increased by 30% in the EEC countries at a time when they were all following a policy of closed frontiers.

27. With regard to crime, it is necessary to counteract a certain type of propaganda which suggests that foreigners possess a monopoly of crime. There is no need to have recourse to sociological studies, it is sufficient to read the crime column in the daily paper to see that there is a connection between crime and living conditions.

28. According to the *Commission du bilan* (a body set up by Mr Mitterrand to assess the progress achieved by his predecessor in office) in France, foreigners constitute 7.4% of the persons convicted for serious offences by Assize Courts, whereas they represent 8% of the population.

29. Accommodation is a question requiring urgent solutions. Unless steps are taken to prevent the massive concentration of migrant workers in housing blocks and slums, social unrest will continue. Admittedly non-painful means of preventing the spread of this cancer are not easy to find but one should avoid having recourse to brutal methods like those used at St-Josse in Belgium where the town authorities—decided to kill two birds with one stone: get rid of the concentrations of migrant workers and bring back the local population, who had taken refuge in the periphery, by giving Turks and Moroccans the following choice: either to pay higher rents or to leave. Most of them chose to move out.

III. *Advantages of having foreign workers in the host country*

30. In an interview with *Der Spiegel* in December 1982, Horst Wagner, a German trade-unionist, stated that in many industries more than 50% of the workers are foreigners. Without them, these industries would have to close down. In that

affligés de troubles moteurs et élèves éprouvant des troubles dans l'apprentissage scolaire. Dans cette dernière catégorie les enfants des migrants constituent la majorité. Seule une minorité (30%) est réinsérée dans le système scolaire normal. 70% (parmi lesquels une majorité d'enfants de migrants) ne réussiront pas avec ces méthodes à dominer les causes spécifiques de leur inadaptation.

iii. *Raisons de l'acuité des problèmes sociaux*

26. Nous avons vu que le chômage est une des raisons déterminantes du phénomène de rejet subi par les travailleurs migrants. Les autochtones voient le chômage comme une conséquence de la présence des immigrants. Pourtant on constate que le chômage a progressé de 30% dans les pays de la CEE alors que l'ensemble de ceux-ci observent une politique de fermeture des frontières.

27. En ce qui concerne la délinquance, il conviendrait de combattre une certaine forme de propagande qui veut attribuer aux étrangers le monopole de la délinquance. Il n'est nul besoin d'avoir recours à des études sociologiques mais il suffit de lire les faits divers dans les quotidiens pour se rendre compte du lien existant entre la délinquance et les conditions de vie.

28. D'après la *Commission du bilan* en France, on trouve 7,4% d'étrangers parmi les condamnés aux assises (pour des crimes) alors qu'il représentent 8% de la population.

29. L'habitat est un des lieux de vie qui nécessitent des solutions urgentes. Dans la mesure où des dispositions ne sont pas prises pour éviter le regroupement massif des travailleurs migrants dans des ensembles immobiliers et des quartiers taudifiés, la prolifération des troubles sociaux persistera. Certes, les moyens indolores de prévenir le développement de ce phénomène cancéreux ne sont pas faciles à trouver. Il faudrait cependant éviter d'avoir recours à des méthodes brutales semblables à celles qui ont été employées à St-Josse en Belgique. La mairie de cette ville, qui n'est d'ailleurs pas un cas isolé en Europe, a décidé de faire d'une pierre deux coups: éliminer les concentrations de travailleurs migrants et ramener les autochtones enfuis à la périphérie en plaçant les Turcs et les Marocains devant le choix suivant: payer un loyer plus cher ou partir. Ils ont opté en général pour le déménagement.

III. *Intérêts de la présence des travailleurs étrangers dans les pays d'accueil*

30. Dans une interview accordée à *Der Spiegel* en décembre 1982, Horst Wagner, syndicaliste allemand, observait que, dans de nombreuses industries, plus de 50% des travailleurs sont étrangers. Ces industries fermeraient leurs portes sans

country, foreigners were dominant in the textile industry and building. The same applies to other countries where there are concentrations of foreigners.

31. As regards population figures, the host countries are experiencing a reduction in the number of young people due to the ageing of the population and a low reproduction rate. In this context, a unilaterally hostile attitude to migrant workers appears not only blameworthy but also irresponsible, as it fails to take into account the role which the latter could play, at least for a certain period, in the replacement of generations, as, when they emigrate, they are young, tend to have large families,¹ or return to their home countries long before they are elderly.

32. It is worth looking carefully at the case of the last-named, whose number varies from country to country, because it considerably undermines the claims that migrant workers are a heavy burden on the nation. The great majority of workers going back to their own countries have not paid enough contributions into pension funds to qualify for an allowance that is equivalent, proportionally speaking, to those awarded from a certain threshold onwards. The level of the allowance paid is excessively small, by comparison with the sums that have been paid out. Furthermore, when the migrant worker is compelled to leave the host country because he has lost his job and cannot find another, he does not receive unemployment benefit.

33. On the cultural level, Europe as a unity still in the process of construction, should, in spite of the enormous difficulties which may be involved, seize the opportunity presented by the presence of foreign workers in several host countries. In the light of the preceding paragraphs, it would seem both inhuman and unrealistic to envisage the mass return of migrant workers to their countries of origin.

34. Thus the host countries on grounds of both necessity and idealism should promote the concept of the integrated Europe of tomorrow, an aim which can only be achieved through interculturalism. The merchants' Europe has limits which can only be transcended by a cultural plan which would finally give a specific content to one of the aims of the Council of Europe: to achieve the unity of Europe while respecting its diversity. Australia and Canada have a constructive attitude with regard to their multicultural societies. Why should not we follow suit?

35. As far as the Council of Europe is concerned, Resolution No. 1 adopted by the Standing

eux. Dans ce pays les étrangers dominent l'industrie textile, la construction. La même remarque vaut pour d'autres pays où il y a des concentrations.

31. Au plan démographique, les pays d'accueil accusent une diminution de la population jeune due au vieillissement de la population conjuguée à un faible taux de fécondité; dans ce contexte, l'attitude unilatéralement hostile des xénophobes à l'égard des travailleurs migrants apparaît non seulement condamnable mais irresponsable, car elle méconnaît le rôle que pourraient jouer les migrants, en tout cas pendant une certaine période, dans le remplacement des générations, en raison du fait qu'ils sont jeunes lorsqu'ils émigrent, qu'ils fondent généralement des familles nombreuses¹, ou qu'ils retournent chez eux bien avant d'avoir atteint le troisième âge.

32. Le cas de ces derniers, dont le nombre varie de pays à pays, mérite qu'on s'y attarde parce qu'il permet de nuancer sérieusement les affirmations tendant à faire des travailleurs migrants une lourde charge pour la nation. En effet, la grande majorité de ceux qui retournent n'ont pas atteint le nombre de cotisations à l'assurance vieillesse leur permettant de percevoir une allocation proportionnellement équivalente à celles qui sont allouées à partir d'un certain seuil. Le niveau de l'allocation est minime par rapport aux sommes versées. En outre, lorsque le travailleur migrant est obligé de quitter le pays d'accueil parce qu'il a perdu son emploi et ne peut en trouver d'autres, il ne perçoit pas d'allocation chômage.

33. Au plan culturel, l'Europe, en tant qu'unité encore en voie d'édification, devrait saisir, malgré les difficultés immenses qui pourraient en résulter, l'occasion unique représentée par la présence des travailleurs étrangers dans plusieurs pays d'accueil. A la lumière de ce qui a été dit dans les paragraphes précédents, il apparaît à la fois inhumain et irréaliste d'envisager des retours massifs des travailleurs migrants dans leur pays d'origine.

34. Alors les pays d'accueil devraient à la fois par nécessité et par idéal être les promoteurs de l'Europe intégrée de demain et cet objectif ne peut être atteint que par la réalisation de l'interculturalisme. L'Europe des marchands a des limites qui ne peuvent être transcendées que par un projet culturel qui, enfin, donnerait un contenu concret à l'un des buts du Conseil de l'Europe: réaliser l'unité de l'Europe dans le respect de sa diversité. L'Australie et le Canada ont une attitude constructive à l'égard de leurs sociétés multiculturelles. Pourquoi pas nous?

35. Au niveau du Conseil de l'Europe, la Résolution n° 1 adoptée par la Conférence perma-

1. Particulièrement dans le cas de la première génération.

1. Ceci se vérifie surtout dans le cas de la première génération.

Conference of European Ministers of Education meeting in Dublin and the projected European Prize for the best television programme encouraging intercultural understanding should be given priority and lead to an appreciable increase in the activities concerned with these questions conducted by the Council for Cultural Co-operation (CDCC).

IV. Limits on the action by host countries and the need for close co-operation with the countries of origin

36. If the host countries need foreign workers, and it cannot be denied that they have many duties towards them, it is nevertheless true that any policy can be successful provided the problems are not out of proportion to the resources available to the public authorities and the capacities of human beings to adapt to new or different situations.

37. The gap between the problems and the resources available for dealing with them can be resolved by providing good transitional arrangements.

38. A numerical threshold of foreign workers which must not be exceeded is an acceptable argument to the extent that an inflow of large numbers occurs at an unforeseen rate and without adequate preparation of the local population which, *inter alia*, becomes anxious about losing its own identity. Thus, Brussels contains 24% of foreigners and 40% of the births are accounted for by Turks, Moroccans or Yugoslavs. Other Belgian localities like St-Josse are now only half Belgian.

39. At the beginning of our report, we referred to a factor influencing the large inflow of foreign workers into the host country, namely: the poverty of the country of origin; the significance of this factor is increased by the clandestine nature of the entry of a certain number of immigrants. In the case of Turks in Germany, it has been recorded that they arrive in East Berlin by charter flights from Turkey and then enter West Berlin and disappear into the Turkish ghetto. Ali-Kasif Eryalin, deputy Turkish Consul-General, stated: "We don't know how many illegal immigrants there are in Berlin or West Germany but the number is very considerable".¹

40. A further point worth making is that the exodus of migrant workers may facilitate matters for the countries of origin, since it brings down the unemployment rate appearing in their statistics and holds out the promise of remittances in the form of foreign currency. There is no concrete example at the moment of any government in

nente des ministres européens de l'Education réunie à Dublin et le projet du Prix européen de la meilleure émission télévisée en faveur de la compréhension interculturelle devraient bénéficier d'une attention prioritaire et donner lieu à un développement sensible des activités en la matière menées par le Conseil de la coopération culturelle (CDCC).

IV. Limites de l'action des pays d'accueil et nécessité d'une coopération étroite avec les pays d'origine

36. Si les pays d'accueil ont besoin de la présence des travailleurs étrangers, s'il est incontestable qu'ils aient des devoirs multiples à assumer à leur égard, il n'en demeure pas moins qu'une politique peut réussir à condition que les problèmes ne soient pas disproportionnés par rapport aux moyens des pouvoirs publics et aux possibilités d'adaptation des êtres humains à des situations nouvelles ou différentes.

37. L'écart entre les problèmes et les moyens d'y faire face peut être résolu voir annulé en assurant de bonnes transitions.

38. Le seuil numérique de la présence étrangère à ne pas dépasser est un argument acceptable dans la mesure où l'afflux de grands nombres intervient à un rythme imprévu et sans préparation adéquate des autochtones qui, entre autres choses, craignent la perte de leur propre identité. Ainsi, Bruxelles comprend 24% d'étrangers et 40% des naissances sont à attribuer aux Turcs, aux Marocains et aux Yougoslaves. D'autres communes belges telles que St-Josse ne sont belges qu'à moitié.

39. Au début de notre rapport nous avons fait état d'un élément déterminant de l'afflux important de travailleurs étrangers dans les pays d'accueil, à savoir: la pauvreté du pays d'origine; cet élément est renforcé par le caractère clandestin de l'implantation d'un certain nombre d'émigrés. En ce qui concerne les Turcs en Allemagne, il a été constaté qu'ils arrivent à Berlin-Est par vol charter provenant de leur pays et ensuite pénètrent à Berlin-Ouest pour disparaître dans le ghetto turc. Ali-Kasif Eryalin, consul général adjoint de la Turquie, a déclaré: «Nous ne savons pas combien d'illégaux il y a à Berlin ou en Allemagne de l'Ouest, mais le nombre est important.»¹

40. Il convient également d'observer que l'exode des travailleurs migrants peut être, pour les pays d'origine, une solution de facilité dans la mesure où il réduit le taux de chômage enregistré dans les statistiques et donne lieu au rapatriement des économies sous forme de devises. A l'heure actuelle, il n'existe pas d'exemple concret d'initia-

1. *Time*, 30 August 1982.

1. *Time*, 30 août 1982.

emigration countries encouraging the utilisation of such funds in the form of investments which will benefit migrant workers returning home, voluntarily or otherwise.

These observations warrant a somewhat different judgment on the host countries' responsibilities.

41. Possible remedies should include not only steps taken at national level but also those requiring bilateral co-operation and the stimuli or constraints provided by international co-operation.

V. Remedies

1. European and international co-operation

42. One should start at this level because the principles worked out there, particularly when included in a convention, fix a threshold below which one must not descend. The complexity and the extreme difficulty of the problems involved at national level may lead to excessive flexibility in the application of these principles. International texts which reflect the requirements of the moral conscience of nations make it possible to avoid or limit the tendency to adopt bad practices.

i. The European Convention on Human Rights

43. It forms the basis and inspiration of other texts relating to specific individual rights such as the European Social Charter and the European Convention on the Legal Status of Migrant Workers. It has been ratified by all the member states. However, its application is not always problem-free. These problems could be reduced if detailed knowledge of the convention was widespread among public authorities at the various levels. This is the aim of Resolution 690 (1979) containing a Declaration on the Police, which defines, *inter alia*, rules of professional conduct taking account of human rights and fundamental freedoms. This resolution was followed by a recommendation (Recommendation 858 (1979) addressed to the Committee of Ministers. In October 1978 the Committee of Ministers adopted Resolution (78) 41 in which it recommended the governments of member states: to promote the teaching of respect for human rights and the relevant protection machinery in an appropriate manner as part of the training of members of the civil and military services. Furthermore, the Committee of Ministers adopted on 14 May 1981 a Declaration on intolerance—A threat to democracy, in which it decided "to promote an aware-

tives gouvernementales dans les pays d'origine encourageant l'utilisation de ces fonds sous forme d'investissement au bénéfice des travailleurs migrants qui choisiraient ou seraient obligés d'y retourner.

Ces observations permettent de nuancer l'évaluation des responsabilités des pays d'accueil.

41. Dans les remèdes susceptibles d'être envisagés, il importe de voir non seulement les mesures prises au niveau national, mais aussi celles qui nécessitent une coopération bilatérale et les impulsions ou selon le cas les contraintes découlant de la coopération internationale.

V. Remèdes

1. Coopération européenne et internationale

42. Il convient de commencer par celle-ci parce que les principes qui sont élaborés à ce niveau, surtout lorsqu'ils s'inscrivent dans une convention, fixent un seuil au-dessous duquel il n'est pas permis de descendre. La complexité et l'extrême difficulté des problèmes à résoudre au niveau national peuvent engendrer une flexibilité excessive dans l'application de ces principes. Les textes internationaux qui traduisent l'exigence de la conscience morale des peuples permettent d'éviter ou limitent le dérapage vers de mauvaises pratiques.

i. Convention européenne des Droits de l'Homme

43. Elle est la base et la source d'inspiration d'autres textes portant sur les droits spécifiques des individus tels que la Charte sociale européenne et la Convention européenne relative au statut juridique du travailleur migrant. Elle a été ratifiée par tous les Etats membres. Cependant son application n'est pas toujours sans problèmes. Ceux-ci pourraient être réduits si la connaissance approfondie de la convention était largement diffusée à différents niveaux des pouvoirs publics. C'est ce souci qui a inspiré la Résolution 690 (1979) contenant une Déclaration sur la police où se trouvent définies, entre autres, des règles de déontologie tenant compte des droits de l'homme et des libertés fondamentales. Cette résolution a été suivie d'une recommandation (Recommandation 858 (1979) adressée au Comité des Ministres. Le Comité des Ministres a adopté en octobre 1978 la Résolution (78) 41, où il recommande aux gouvernements des Etats membres notamment: de promouvoir un enseignement approprié sur le respect des droits de l'homme et les mécanismes de protection, afférents dans le cadre de la formation des membres civils et militaires de la fonction publique. En outre, le Comité des Ministres a adopté le 14 mai 1981 une Déclaration sur l'intolé-

ness of the requirements of human rights and the ensuing responsibilities in a democratic society, and to this end, in addition to human rights education, to encourage the creation in schools, from the primary level upwards, of a climate of active understanding of, and respect for, the qualities and culture of others".

The Assembly should keep an eye on the application of these texts in the various member states.

44. The outbursts of xenophobia in various European countries and the need to strengthen the role of the public authorities in combating them give special importance to the Declaration on the Police.

ii. *European Convention on the Legal Status of Migrant Workers*

45. This convention came into force on 1 May 1983, that is to say five years after it was negotiated. Five ratifications¹ spread over five years were required to bring this about. This was rather a long period for a document which in the course of preparation took account of the various differences and shades of opinion put forward by the experts of twenty-one countries and which is founded on basic principles recognised by everyone. Furthermore, according to this text, not everybody who wishes to do so qualifies as a migrant worker. Thus, frontier workers, artists, sailors, trainees, seasonal workers and workers from one Contracting Party performing a specific task on the territory of another Contracting Party on behalf of an undertaking whose registered office is outside the territory of the latter Contracting Party, are excluded. Thus, precautions have been taken not to confer specific rights on all comers and to make possible the improvement of a potentially explosive situation in several countries.

46. The implementation of these rights, which cover matters such as housing, schooling, occupational and linguistic training, teaching of the mother tongue, working conditions, social security, etc., certainly requires a considerable effort on the part of the host country but this is compensated by the migrant workers' contribution to the general weal of the local community and makes it possible to avoid the sometimes dramatic consequences of maladjustment and rootlessness.

47. Further signatures have been promised; we must hope for a snowball effect which will

1. The convention has been ratified by the Netherlands, Portugal, Spain, Sweden and Turkey, that is two immigration and three emigration countries. It has been signed by Belgium, the Federal Republic of Germany, France, Greece, Italy and Luxembourg.

rance — Une menace pour la démocratie, où il décide «de promouvoir la prise de conscience des exigences des droits de l'homme et des responsabilités qui en découlent dans une société démocratique, et à cet effet, outre l'éducation en matière de droits de l'homme, d'encourager la création dans les écoles, dès le premier cycle, d'un climat de compréhension active et de respect des qualités de la culture d'autrui».

L'Assemblée devrait suivre l'application de ces textes dans les divers Etats membres.

44. Les flambées de xénophobie dans divers pays d'Europe et la nécessité de renforcer le rôle des pouvoirs publics pour les combattre donnent à la Déclaration sur la police une importance d'autant plus grande.

ii. *Convention européenne relative au statut juridique du travailleur migrant*

45. L'entrée en vigueur est intervenue le 1^{er} mai 1983, soit cinq ans après son établissement. Il a fallu cinq ratifications¹ étalées sur cinq ans pour obtenir ce résultat, délai plutôt long pour un texte qui a tenu compte au cours de son élaboration des nuances et des différences entre les positions des experts émanant de vingt et un pays et qui s'inspire de principes de base reconnus par tous. Ajoutons que, d'après ce texte, n'est pas travailleur migrant qui veut. Ainsi sont exclus les travailleurs frontaliers, les artistes, les gens de mer, les stagiaires, les saisonniers et les travailleurs ressortissants d'une Partie contractante effectuant un travail déterminé sur le territoire d'une autre Partie contractante, pour le compte d'une entreprise ayant son siège social en dehors du territoire de cette dernière Partie contractante. Donc les précautions sont prises pour ne pas octroyer la reconnaissance de droits spécifiques à tout venant et permettre l'assainissement d'une situation potentiellement explosive dans plusieurs pays.

46. L'application de ces droits qui couvrent des aspects tels que le logement, la formation scolaire, professionnelle et linguistique, l'enseignement de la langue maternelle, les conditions de travail, la sécurité sociale, etc., requiert certes un effort important de la part du pays hôte mais qui est compensé par l'apport du travailleur migrant à l'intérêt collectif local et permet d'éviter les conséquences parfois dramatiques de l'inadaptation et du déracinement.

47. D'autres signatures sont annoncées; il faut espérer en un processus boule de neige qui

1. La convention a été ratifiée par les Pays-Bas, le Portugal, l'Espagne, la Suède et la Turquie, soit par deux pays d'immigration et trois pays d'émigration. Etats signataires: la Belgique, la France, la Grèce, l'Italie, le Luxembourg et la République Fédérale d'Allemagne.

bring in all the member states in the shortest possible time.

iii. *International economic co-operation*

48. As stated above, migrant workers fled from poverty which was a consequence of the development of the host territories. These areas may in turn, on account of the excessively massive and, to some extent, clandestine exodus, be unable to meet the legitimate demands of all newcomers for fundamental rights and decent living conditions in the place where they settle. It would be more logical and in the last analysis less exacting to help them to realise their aspirations in the place where they were born. This reason, added to numerous others, which have been set out in the Assembly's resolutions and recommendations, makes the vital need for North-South co-operation within Europe and between Europe and the Third World all the more obvious.

In this context, the colloquy to be organised by the Assembly in 1984 "North-South: Europe's role" is of especial importance.

2. *National policy and bilateral co-operation*

49. What can be recommended on the multilateral level can also be recommended in bilateral policies. The extremely complex problems of migrant workers cannot be solved by the good will alone of the host country or that of the country of origin. Bilateral co-operation should complete, multilateral co-operation by measures adjusted to individual situations. Agreements between the two parties should regularise the flow of migration, improve the conditions for making a choice between returning to the country of origin or integrating into the host country and, above all, make the intercultural policy more effective.

50. Preparation for the customs and language of the host country should, ideally, begin in the country of origin so as to mitigate, if not avoid, the clash of mentalities and the difficulties of linguistic communication. Similarly the host countries should adapt their national education to the special problems of ethnic groups and make room for their specific cultures. Such an effort to facilitate mutual comprehension has a positive effect on the health of migrant workers. In fact serious studies in the Federal Republic of Germany have shown that a considerable amount of the illness affecting foreign workers has psychological origins connected with homesickness. This observation should give food for thought even to those unfeeling persons who only regard these workers as an instrument of production.

entraînera la totalité des Etats membres dans les délais les plus courts possible.

iii. *Coopération économique internationale*

48. Nous l'avons dit plus haut: les travailleurs migrants ont fui une misère qui est la conséquence du développement des régions d'accueil. Celles-ci peuvent se trouver à leur tour, en raison du caractère trop massif et, dans une certaine mesure, clandestin de l'exode, dans l'impossibilité de répondre aux aspirations légitimes de tous les nouveaux venus à des droits fondamentaux et à des conditions d'existence décentes dans les lieux où ils s'installent. Il serait plus logique et en fin de compte moins ardu de contribuer à la réalisation de leurs aspirations là où ils sont nés. Cette raison ajoutée aux nombreuses autres qui ont été développées dans des résolutions et recommandations de l'Assemblée rend d'autant plus évidente la nécessité vitale d'une coopération Nord-Sud à l'intérieur de l'Europe et entre l'Europe et le tiers monde.

Dans ce contexte, le colloque qui sera organisé par l'Assemblée en avril 1984 «Nord-Sud: le rôle de l'Europe» revêt une importance toute particulière.

2. *Coopération bilatérale et politique nationale*

49. Ce qui peut être recommandé au niveau multilatéral l'est également au niveau bilatéral. Les problèmes fort complexes des travailleurs migrants ne peuvent être résolus par la seule bonne volonté éventuelle du pays d'accueil ou du pays d'origine. La coopération bilatérale devrait compléter la coopération multilatérale par des mesures adaptées à des situations particulières. Des accords entre les deux parties devraient régulariser le flot des migrations, améliorer les conditions du choix entre le retour au pays d'origine ou l'intégration dans le pays d'accueil et surtout rendre plus effective une politique d'interculturalisme.

50. La préparation aux us et coutumes et à la langue du pays d'accueil devrait dans la meilleure des hypothèses commencer dans le pays d'origine pour atténuer sinon éviter le choc des mentalités, et les difficultés de communication linguistique. De même, les pays d'accueil devraient adapter l'enseignement national aux problèmes particuliers des groupes ethniques et créer un espace pour leurs cultures propres. A l'intérêt d'un tel effort pour faciliter la compréhension mutuelle, s'ajoute l'effet positif sur l'état de santé des travailleurs migrants. En effet, des études sérieuses effectuées en République Fédérale d'Allemagne ont montré que bon nombre des maux affligant les travailleurs étrangers ont des origines psychiques liées à la nostalgie. Cette remarque devrait faire réfléchir même ceux qui, dépourvus de sentiments humanistes, ne veulent considérer ces tra-

51. This co-operation should also put an end to the exploitation of so-called seasonal workers (see paragraph 19) and lead—in what we hope will be a very near future—to the full application of the European Convention on the Legal Status of Migrant Workers.

52. With respect to host countries, the enactment and/or strict application of legislation to prevent discriminatory and anti-foreign activities is essential. Such activities are especially unjustifiable in states which have ratified the European Convention on Human Rights.

53. Having said that, one must be realistic and create conditions favourable to the application of these principles. The use of the criminal law is not sufficient without a real change of attitude, an open-minded approach to differences and an understanding of the real causes of such situations. This object can be achieved by information campaigns.

3. *Information campaigns designed to create awareness among the public*

54. Such campaigns should be started at once by the member countries, and in particular immigration countries, because the extent to which relations between migrants and the local population have deteriorated presents a serious challenge to any policy of reconciliation, however determined. What is needed is to write off, by prompt action, the already heavy price of procrastination and lack of foresight. The objective behind such campaigns should be to highlight the factors involved in emigration, the different kinds of responsibility lying behind the phenomenon, the errors committed, the prejudice shown in passing judgment on foreign workers, their contribution to past economic development, the role that they can play in the present and future economic situation, the unfavourable aspects connected with the conditions in which many of those workers live.

55. The campaigns should cover, in addition to the comprehension of the actual situation in which foreign workers find themselves, activities designed to spread more knowledge of the cultural wealth of the countries of origin, and of attitudes generally found in those countries. Europe should take advantage of the unique opportunity offered by the presence of foreign workers in several immigration countries, as already suggested in paragraph 34, to foster and develop fruitful exchanges with them. Here, we would do well to model ourselves on the Japanese. At the Parliamentary and Scientific Conference organised by the Assembly in June 1981, the Japanese speakers referred to the interest felt by a considerable

vailleurs que comme un instrument de la production.

51. Cette coopération devrait également aboutir à une élimination de l'exploitation des soi-disant saisonniers (voir paragraphe 19) et — dans un avenir que nous espérons aussi proche que possible — à une application pleine et entière de la Convention européenne relative au statut juridique du travailleur migrant.

52. En ce qui concerne particulièrement les pays d'accueil, la création ou/et l'application rigoureuse des lois tendant à prévenir les actes discriminatoires et xénophobes s'imposent. La manifestation de tels phénomènes est d'autant moins justifiable dans des Etats ayant ratifié la Convention européenne des Droits de l'Homme.

53. Ceci dit, il faut être réaliste et créer les conditions favorables à l'application des principes. L'utilisation de mesures légales répressives ne suffit pas si elle n'est pas accompagnée d'un réel changement des mentalités, d'une ouverture d'esprit à l'égard des différences, et d'une compréhension des causes réelles des situations vécues. Ce but peut être atteint par des campagnes d'explication.

3. *Campagnes d'explication en vue de sensibiliser l'opinion publique*

54. Elles devraient être entamées par les pays membres et notamment les pays d'immigration dans un avenir immédiat, car la gravité de la détérioration des rapports entre migrants et autochtones constitue un défi considérable pour toute politique de conciliation, fût-elle des plus volontaristes. Il s'agit d'amortir, en agissant vite, le prix déjà bien lourd de l'imprévoyance et de la temporisation. L'objectif de ces campagnes devrait mettre en lumière les facteurs de l'émigration, les différentes sortes de responsabilités qui sont à l'origine de ce phénomène, la part d'erreurs et de préjugés dans les jugements portés sur les travailleurs étrangers, leur apport au développement économique passé, le rôle qu'ils peuvent jouer dans la situation économique présente et future, les aspects désavantageux des conditions d'existence de bon nombre d'entre eux.

55. En plus de la compréhension des situations réelles des travailleurs étrangers, ces campagnes devraient inclure des activités tendant à mieux faire connaître la richesse culturelle et les mentalités des pays d'origine. Ainsi que nous l'avons dit au paragraphe 34, l'Europe devrait saisir l'occasion unique représentée par la présence des travailleurs étrangers dans plusieurs pays d'immigration pour assurer et développer des échanges fructueux avec ces derniers. Nous devrions prendre exemple à ce sujet sur les Japonais. A l'occasion de la Conférence parlementaire et scientifique organisée par l'Assemblée en juin 1981, les intervenants japonais ont souligné l'intérêt qu'un grand nombre de leurs compatriotes

number of their compatriots in the different aspects of the culture of European countries, and stressed the part played by such knowledge in market penetration and their economic success, which prompts admiration and fear, as their Western counterparts confess. The Japanese speakers called on Europe to disseminate better knowledge about Japan at home.

56. A similar call should be addressed to other countries as well.

But our concern extends further than any economic gains to be sought from attempts to establish intercultural communication. What we are concerned with is trouble-free, social coexistence among different ethnic communities.

57. On the basis of a survey in which French people were shown some fifty photographs and asked which they thought were the most representative of Portugal, J.M. Poulhes of the *Ecole normale supérieure de St-Cloud*, showed that stereotyped judgments prevailed: traditional agriculture, fishing (a lot of fish is eaten in Portugal), dull and lifeless towns, etc. Photographs about technology were dismissed.¹

58. A survey carried out among French schoolchildren on the importance they attached to Portuguese prompted replies such as "Portuguese is not an international language", "Portuguese is not a widely known language", "It is a language spoken by very few people". They were unaware, apparently, that the language is used in Brazil, Mozambique, Angola, Cape Verde, etc.

59. The time has come to reject stereotyped views of the cultures of others, to take up the challenge presented by multicultural societies as, otherwise, the genius of Europe will be starved of the new fodder it needs to sustain it, and our civilisation, like other civilisations guilty of ethnocentrism, will sink into a decline the consequences of which will be disastrous.

As a result of the right to free movement, which is recognised in the Europe of human rights, multicultural societies are an irreversible phenomenon. We must strive to ensure that they develop harmoniously.

60. The campaigns in question should be conducted by the authorities with the collaboration of all associations concerned, and also by the mass media.

61. The Parliamentary Assembly should set an example by organising a conference with representatives of the mass media and supporters of various political tendencies, which would constitute a starting-point for national campaigns.

1. See "Course on the intercultural training of teachers", Doc. DECS/EGT (82) 11, published by the Council of Europe.

portent aux différents aspects de la culture des pays européens et ont insisté sur le rôle joué par cette connaissance des peuples dans la pénétration des marchés, dans leur succès économique, qui, aux dires mêmes des Occidentaux, suscite admiration et crainte. Aussi les intervenants japonais ont-ils invité l'Europe à propager chez elle une meilleure connaissance du Japon.

56. Cette invitation devrait s'appliquer à tout autre pays.

Mais notre propos va au-delà de l'intérêt économique éventuel d'un effort de communication interculturelle. Notre propos vise la coexistence sociale sereine entre communautés ethniques diverses.

57. A partir d'une étude issue de la présentation d'une cinquantaine de photographies sur lesquelles il était demandé à des Français de se prononcer sur les plus représentatives du Portugal, J.M. Poulhes, Ecole normale supérieure de St-Cloud, montre la prédominance de jugements stéréotypés: agriculture traditionnelle, pêche (on mange beaucoup de poissons au Portugal), manque de vie dans les villes, etc; les photographies relatives à la technologie sont écartées¹.

58. Une enquête menée auprès d'élèves français sur l'intérêt de la langue portugaise a donné lieu à des réponses telles que «le portugais n'est pas une langue internationale», «le portugais n'est pas une langue connue», «c'est une langue parlée par très peu de monde». Ainsi l'implantation de cette langue au Brésil, au Mozambique, en Angola, au cap Vert, etc., est ignorée.

59. Il est temps de provoquer un dépassement des stéréotypes à l'égard de la culture d'autrui, de relever le défi lancé par les sociétés multiculturelles, faute de quoi le génie de l'Europe serait privé des renouvellements nécessaires à sa fécondité et notre civilisation, à l'instar d'autres civilisations qui ont péché par ethnocentrisme, connaîtrait un déclin lourd de conséquences.

Les sociétés multiculturelles constituent, en raison du droit à la liberté de mouvement reconnu dans l'Europe des droits de l'homme, un phénomène irréversible. Il faut œuvrer pour l'harmonie dans leur évolution.

60. Ces campagnes devraient être menées par les pouvoirs publics avec la collaboration de toutes les associations concernées ainsi que par les mass media.

61. L'Assemblée parlementaire devrait donner l'exemple en organisant une conférence avec des représentants des mass media et des tenants de diverses tendances politiques qui constituerait le point de départ de campagnes menées au niveau national.

1. Voir «Stage sur la formation interculturelle des enseignants», Doc. DECS/EGT (82) 11, publié par le Conseil de l'Europe.

4. Representation of migrant workers on professional or other bodies

62. A further way of helping to bring about a change in the climate of relations between local and foreign workers would be to try and create scope for migrant workers to be represented. An example of this is provided by the Federal Commission for the problems of aliens (CFE) in Switzerland, whose objective is to make teachers aware of the problems facing foreigners; three of its members are Italian, and one is Greek.

63. The presence of spokesmen of migrant workers or just members of different ethnic groups on radio and television programmes also helps bring the different communities closer together. This kind of initiative is similar to what is being done in the United Kingdom and the United States, with coloured people carrying out duties or playing parts once exclusively reserved for white people.

5. Appeal to trade unions and employers

64. It is worth stressing the essential character of the trade union contribution to efforts to combat all aspects of xenophobia; this applies to their support for the signature and implementation of international conventions, for initiatives facilitating the adaptation of migrant workers, the implementation of social security provisions and occupational advancement and for campaigns to inform public opinion.

65. Employers' associations or federations could play an important part in improving the situation, by bringing pressure to bear on employers tempted to discriminate against migrant workers when recruiting labour and in the way they treat their labour force, by taking appropriate action to see that migrant workers can adjust to their new conditions of existence, at work and away from work, by giving them the chance to adapt to the way in which work changes and develops in the firm.

4. Représentation des travailleurs migrants dans les organismes de nature professionnelle ou autres

62. Des initiatives tendant à créer ces possibilités de représentation pourraient également contribuer au changement de climat dans les rapports entre les travailleurs locaux et les travailleurs étrangers. Citons à titre d'exemple la Commission fédérale pour les problèmes des étrangers (CFE) en Suisse qui a pour objectif de sensibiliser le corps enseignant aux problèmes des étrangers et qui comprend trois Italiens et un Grec.

63. La présence de porte-parole de travailleurs migrants ou simplement de personnes appartenant à des ethnies différentes dans des émissions de radio et de télévision constitue aussi un facteur de rapprochement. Ce type d'initiative est proche de ce qui est entrepris au Royaume-Uni et aux Etats-Unis avec l'apparition de gens de couleur dans des fonctions ou des rôles autrefois exclusivement réservés aux blancs.

5. Appel aux syndicats et aux patrons

64. Il convient de souligner le caractère essentiel de la contribution des syndicats à la promotion de la lutte contre la xénophobie sous tous ses aspects: qu'il s'agisse de la promotion de la signature ou de l'application des conventions internationales, de la promotion des initiatives tendant à faciliter l'adaptation des travailleurs migrants, de l'application des dispositions en matière de sécurité sociale et de la promotion professionnelle, ou la campagne d'explication auprès de l'opinion publique.

65. Les associations ou fédérations patronales pourraient jouer un rôle important dans l'amélioration de la situation en faisant pression sur les employeurs tentés par des modes de recrutement et des traitements discriminatoires à l'égard des travailleurs migrants, en facilitant, par des activités appropriées, l'adaptation des travailleurs migrants à leurs nouvelles conditions d'existence tant à l'intérieur de l'entreprise qu'à l'extérieur, en leur offrant des possibilités de faire face à l'évolution éventuelle des tâches dans l'entreprise.

PROGRAMME

Symposium : "Aliens, a threat or an asset ?"

Strasbourg, 20 and 21 March 1984

1. Chairman : Claude DEJARDIN, Member of Parliament (Belgium),
Chairman of the Committee on Migration, Refugees and
Demography of the Council of Europe Parliamentary Assembly
2. General Rapporteur : Richard Müller, Member of the National Council
(Switzerland)
3. Themes :

20 March (morning) :

Theme 1 : The presence of aliens : the past, the present, reasons.

- What role did aliens play in coming to do jobs not wanted by nationals, thus contributing to economic and social development in the 60s and 70s ?
- What is the importance of their role today, given current economic patterns and the demographic problems of the host societies ?
- How do the media help the native population to understand aliens ?

Discussion leaders : Mrs Karin ANDERSSON, Member of Parliament (Sweden)
and former Minister for Migration, and a journalist
(to be designated)

20 March (afternoon) :

Theme 2 : Hostility towards aliens : reasons and manifestations.

- What are the reasons for hostile attitudes towards aliens and xenophobic movements ? What forms do these take ? Who stirs them up ?
- To what extent are politicians, employers, trade unions and the media, inter alia, responsible for these attitudes and movements ?

Discussion leaders : Franco FOSCHI, Member of Parliament (Italy), former Minister and Under-Secretary of State for Foreign Affairs with responsibility for emigration, sociale welfare and cultural, scientific and technical co-operation, and a journalist (to be designated)

21 March (morning) :

Theme 3 : Integration of aliens into host societies : how can this be achieved ?

- Should the integration of aliens into host societies be encouraged and, if so, by what means ?
- What part should the media, the education system, socio-cultural measures, politicians, employers and trade unions play in this regard ?

Discussion leaders : Senator Julian GRIMALDOS (Spain)
and a journalist (to be designated)

4. Type of meeting : Symposium permitting three groups of participants - politicians, representatives of the media and those directly concerned - to exchange ideas and compare analyses and interpretations.
5. Participants :
- a) Politicians : Members of the Council of Europe Parliamentary Assembly, delegation from the European Parliament, members of national parliaments directly concerned, representatives of central and local government.
 - b) The media : Journalists, leader writers and radio and television programme editors, presenters and producers.
 - c) Those concerned :
 - Representatives of employers' organisations and trade unions;
 - Teachers, community workers and organisers of cultural events;
 - Government experts and civil servants responsible for matters concerned with residence, reception, asylum, etc.
 - Representatives of international organisations dealing with the situation of aliens.
6. Working languages : French, English, Italian and German.
7. Organisation of proceedings : Two ten-minute statements from different viewpoints on each theme;
Speaking time for other speakers restricted to six minutes.

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

DECLARATION

REGARDING INTOLERANCE — A THREAT TO DEMOCRACY

*(Adopted by the Committee of Ministers on 14 May 1981
at its 68th Session)*

The Committee of Ministers of the Council of Europe,

1. Convinced that tolerance and respect for the dignity and intrinsic equality of all human beings are the very basis of a democratic and pluralistic society ;
2. Profoundly disturbed by the resurgence of various forms of intolerance ;
3. Reaffirming its determination to safeguard the effective political democracy referred to in the Preamble to the Convention for the Protection of Human Rights and Fundamental Freedoms ;
4. Recalling that human rights and fundamental freedoms are the very foundation of justice and peace throughout the world ;
5. Bearing in mind that the Convention for the Protection of Human Rights and Fundamental Freedoms has successfully afforded effective international protection, without discrimination, to everyone within the jurisdiction of the Contracting States ;
6. Recalling that, in accordance with the United Nations International Convention on the Elimination of All Forms of Racial Discrimination and following the Committee of Ministers Resolution (68) 30 of 31 October 1968, on measures to be taken against incitement to racial, national and religious hatred, several member states have either adopted new legislation or reinforced existing legislation against acts inspired by racism ;
7. Welcoming the adoption by the Consultative Assembly of Resolution 743 (1980) on "the need to combat resurgent fascist propaganda and its racist aspects" ;
8. Considering that the best way of countering all forms of intolerance is to preserve and consolidate democratic institutions, to foster citizens' confidence in those institutions and to encourage them to take an active part in their operation ;
9. Convinced of the vital part played by education and information in any action against intolerance, whose origin frequently lies in ignorance, source of incomprehension, hatred and even violence,
 - I. Vigorously condemns all forms of intolerance, regardless of their origin, inspiration or aims, and the acts of violence to which they give rise, especially when human lives are at stake ;
 - II. Rejects all ideologies entailing contempt for the individual or a denial of the intrinsic equality of all human beings ;
 - III. Solemnly recalls its unswerving attachment to the principles of pluralistic democracy and respect for human rights, the cornerstone of membership of the Council of Europe, as well as to the Convention for the Protection of Human Rights and Fundamental Freedoms, the essential instrument in the effective exercise of these rights ;

IV. Decides :

i. to reinforce efforts, at national and international levels, and particularly in the framework of the Council of Europe, to prevent the spread of totalitarian and racist ideologies and to act effectively against all forms of intolerance ;

ii. to take, with this objective in mind, all appropriate measures and to implement a programme of activities including, in particular, the study of legal instruments applicable in the matter with a view to their reinforcement where appropriate ;

iii. to promote an awareness of the requirements of human rights and the ensuing responsibilities in a democratic society, and to this end, in addition to human rights education, to encourage the creation in schools, from the primary level upwards, of a climate of active understanding of and respect for the qualities and culture of others ;

V. Agrees that member states will make every effort so that the principles enounced above prevail within other international organisations ;

VI. Appeals to all institutions, movements and associations and to all political and social forces to contribute towards a sustained effort against the threat to democracy represented by intolerance.

COUNCIL OF EUROPE

PARLIAMENTARY ASSEMBLY

Strasbourg, 23rd January 1984

Please quote : AR-C13

COMMITTEE ON MIGRATION,
REFUGEES AND DEMOGRAPHY

Dear Sir, Madam,

One of the consequences of the economic crisis affecting all member states of the Council of Europe is a resurgence of xenophobic attitudes and movements, which is directly jeopardising the integration and indeed the continued presence of foreign immigrants and refugees in our societies.

The arguments put forward on this subject usually reveal that the public has been inadequately and ineptly informed of the causes and implications of the presence of these aliens as well as reflecting a dangerous lack of understanding.

Our Assembly discussed the subject at its autumn 1983 session and instructed our Committee to organise an event to alert public opinion in the matter.

The form of event chosen is a confrontation permitting a free and democratic exchange of views on the problems stemming from the presence of large numbers of aliens in our countries.

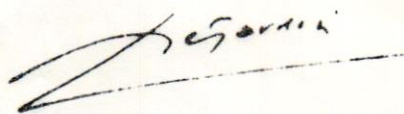
The confrontation will take place in conjunction with the International Day for the elimination of racial discrimination at the Council of Europe's headquarters in Strasbourg, on 20 and 21 March 1984. Its title will be: "Aliens, a threat or an asset?"

Further particulars are appended.

Apart from permitting a direct comparison of analyses and interpretations, the purpose of the confrontation will be to obtain as much varied information as possible from all sources so as to ensure maximum objectivity for the Parliamentary Assembly's continuing work on migrant workers and refugees.

In view of your expertise, interest and responsibilities in this matter, I have pleasure in inviting you to attend the confrontation. I should be grateful if you would give your reply by sending the attached form to Mr Roberto La Porta (Secretary of the Committee on Migration, Refugees and Demography) by 5 March 1984, so that we can organise the proceedings as efficiently as possible.

Yours sincerely,



Claude DEJARDIN

Chairman of the Committee on Migration,
Refugees and Demography

M. Refik SERNER
Invandrarbyrå
Tenstagängen 4
S - 16364 SPANGA

103. It only remains for me to express my very deep appreciation to the governmental authorities in Turkey for their courteous assistance in providing the many facilities that were essential to enable me to carry out this mission. I should also like to thank, in particular, Mr. Yilmaz and his colleagues in TURK-IS whose valuable assistance throughout my mission was greatly appreciated; Mr. Ibrahimoglu and his colleagues in the Employers' Confederation (TISK) who assisted the mission with great courtesy; and all the many others who provided information to the mission.

104. Last, but not least, I wish to record a special word of thanks to Mr. Bruce Macdonald and all his staff at the ILO Office in Ankara, in particular Mr. Ruchan Isik, whose exemplary efficiency and friendliness greatly facilitated the carrying out of this mission.

Ian Lagergren

Geneva, August 1982

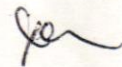
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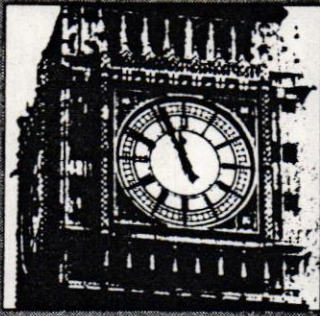
Ar. Konseyinde en fazla 'avukatlık',
yapan ve gıpta'yı savunan kişi

- Kimliği sayfa 25 - tramaların
hölürü
ayrıca fiki cuntasıya siki fiki.

- "Yasağın olındaki Kullon" (!)
kitabının esin yararı
Ayının karından çıkan komünistler

Edward Luttwak → Washington'da
Türkiye İdareine Paul Henze ile
Katılmakta

CLARA LA 



While there's time...

FOCUS

Each month FOCUS will spotlight one aspect of the nuclear arms race and the campaign to end it. This month we bring you...

America's Holocaust Lobby finds British allies

The men who are dying to win

The US Government, private foundations and individuals are pumping millions of dollars into the campaign against the peace movements. *Sanity* investigates, tracing the transatlantic links of the men and women who use the term Cold War "proudly".



FOCUS: The Holocaust Lobby, UK

On December 6th 1983 the *Daily Telegraph* published a scathing attack on the TV-film *The Day After*, due to be screened the following weekend.

"Dispensing Dr Goebbels' prescription" screamed the headline.

The author was Edward Luttwak, hardly a household name. But the only introduction the *Telegraph* thought necessary was the fact that Mr Luttwak was writing "in Washington".

In fact Edward Luttwak is a senior fellow of the Centre for Strategic and International Studies, Georgetown University, Washington DC. He describes himself as a "leading strategic affairs consultant" and, despite his spirited defence of President Reagan against the "new class of media campaigners against the nuclear deterrent" provided for British readers, he is really quite a critic of the White House.

Edward Luttwak thinks that President Reagan is too soft on the Russians, too soft on the peace movement and unwilling to face the 'reality' that nuclear war could take place with "surprisingly few dead on all sides".

These views, not thought appropriate for his foray into the columns of the *Telegraph*, were set out in a long article published in the May 1982 edition of the right-wing American magazine *Commentary*.

"Instead of re-affirming its strategy," Luttwak wrote, "the Reagan administration has for the most part responded to the arguments and claims of the peace movements by appeasing the protesters, the churchmen and the media. From those who once could explain quite lucidly the fundamental and unchanging reasons for the inevitable failure of arms control, we now hear only great declarations of their love of peace, their revulsion against war, and their sincere dislike of nuclear weapons."

The obvious targets for this revealing vitriol are fellow associates of the Georgetown Centre who throughout the seventies played a key role in shaping the foreign policy stance of what was to become the Reagan administration. The Centre supplied President Reagan with his UN Ambassador Jean Kirkpatrick and his first National Security Advisor Richard Allen.

If administration members are weened from the true faith, says Luttwak, by the needs of good public relations, then the administration is doomed.

"The time has come to deal forthrightly with the anti-nuclear agitation," he continued in *Commentary*. "To do as the Reagan administration has done, to concede and appease, is highly dangerous."

He clinched his argument by warning that "appeasement" might make it difficult, one fine day, to actually use those not-to-be-disliked nuclear weapons.

"After all," he teases, "it will be said, what petty diplomatic concern, what minor strategic advantage is more important than peace and survival?"

KEEPING UP THE PRESSURE: JOHN M FISHER AND CPS (USA)

THE WRITINGS and political activism of people like Edward Luttwak is aimed at keeping the pressure on the US administration for ever greater arms budgets, for the rejection of notions of arms control and disarmament, for the adoption of 'war-fighting' nuclear strategies, for an ever more hawkish world outlook.

A complex international web of fund-raising organisations, 'think-tanks', news agencies, academic networks, committees and conferences exists to further this work. Together, their budgets run into hundreds of millions of dollars. Their outpourings — special reports, magazines, books, pamphlets, specially produced television programmes and commercials — are ceaseless.

Hit list USA . . .

Take the American Security Council (ASC) for example. Despite the official-sounding name this is in fact a private lobbying group. The ASC is huge. It has an office-block operations centre in Washington DC. It has, at separate locations, a research centre and a seminar centre. It has, by way of headquarters, an 850-acre campus in the Blue Ridge mountains.

"We are not looking for some incremental change in defence spending", says ASC President, sixty-year-old former FBI agent John M Fisher, "but a major change in national attitudes".

Fisher founded the ASC whilst working for the giant Sears-Roebuck Corporation in Chicago in 1960. Every year since 1970 Fisher's organisation has published its "voting index", a sort of hit list of Congressmen deemed soft on defence.

In the late 1970's Fisher's ASC set up a group called the Coalition for Peace through Strength, uniting over one hundred organisations, two thousand retired admirals and generals and

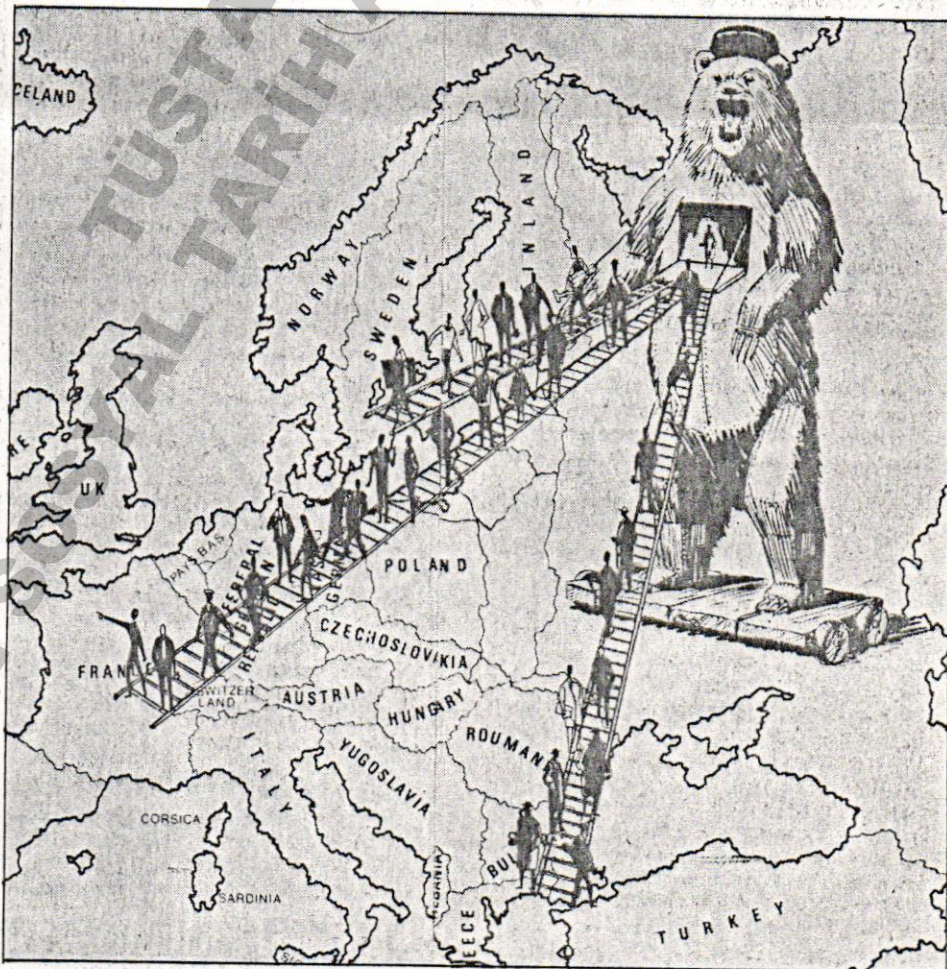
over two hundred Congressmen, including Ronald Reagan.

The Coalition cut its teeth on a campaign against the SALT-II treaty which it described as a policy of "unilateral disarmament and retreat", despite the fact that the treaty provided for enormous growth of the US nuclear arsenal.

Later, using that ASC "voting index", it set in motion a computerised network of political action groups and direct mailings to 'suspect' Congressmen's constituents. In the 1980 elections the Coalition claimed some credit for the fact that eight out of ten Congressmen given a low rating in the index failed to be re-elected.

In January 1981 the Coalition introduced a resolution into the Congress it had helped shape, reflecting the organisation's policy aims. The resolution called for "a national strategy" based on "overall military and technological superiority over the Soviet Union", increases in civil defence spending and rejection of any arms control agreement that "locks the United States into a position of military inferiority". And that, as a quick glance at the ASC literature suggests, means almost any form of arms control at all.

Next the Coalition turned its resources loose on the US peace movement and its nuclear freeze proposal. Six documentary films were produced which, Fisher claims, have been shown over four thousand times on local and national TV. *Countdown for America*, one of the Coalition films, features Caspar Weinberger, US Secretary of State for Defence and is hosted by Charlton Heston, the film star.



ABSURD: An illustration from Sir Frederic Bennett's booklet *Reds under the Beds* (sic), published by the Foreign Affairs Research Institute.

FOCUS: The Holocaust Lobby, UK

The worse kind of accommodation, she warned, was any form of arms negotiations. Arms talks, she claimed are the "talismán of the self-deceived".

● **Lt General Daniel Graham:** Director of the 'High Frontier Project', a group researching and popularising 'Star Wars' space-based weapons, funded by the Heritage Foundation. Graham is also a stiff member of the American Security Council (ASC) and co-chair of the Coalition for Peace through Strength (US). Between 1974 and 76 he was head of the Pentagon's Defence Intelligence Agency and has also held senior posts in the CIA. He was an advisor on military matters to Reagan's 1980 Presidential election campaign.

Space has likewise been an abiding obsession for Coalition for Peace through Security (UK) founder Holihan. Holihan claims to have organised a July 1982 trip to Britain by Graham's number two at High Frontier, Robert Richardson III. Richardson presented a film publicising space weapons to MoD officials. He told journalists that the system was "entirely defensive." What's more, he added, "the peace movement can't lay a hand on it. We've pre-empted the moral high ground."

Graham himself rails against the doctrine of Mutual Assured Destruction; the idea that there will be no nuclear war because each side would respond by destroying the other.

Adopting the space weapons plan, he says, "would represent a long-overdue concrete rejection (by the West) of the Mutual Assured Destruction theory. The theory, he says, has "abetted" the "determined efforts by the Soviet Union to establish global military dominance."

● **Stuart Schwartzstein,** director of Freedom House, another group member of the Coalition for Peace through Strength (US). Freedom House maintains links with émigré groups in the US and gained fame in 1980 by alleging that an anthrax outbreak in the Ural mountains, central Russia, was due to an accident at an alleged Soviet "biological weapons" factory.

The story was picked up by the international media, especially *NOW!* magazine in Britain, but was never proved. Neither the US Defence Intelligence Agency nor any other official American intelligence agency was prepared to make a public judgement at the time of the

allegations. Nonetheless the story was important in sustaining the "Russians cheat on treaties" mood, helpful to Reagan's election campaign and the campaign against SALT-II.

"Soviets need you"

The Coalition (UK) claims to have a Washington Office and staff at 413 East Capitol Street, Washington DC. This turns out to be the offices of an organisation called the National Center for Public Policy Research, headed by Joseph Quinn and Amy Moritz.

The National Center runs a number of 'projects' including the Committee to Prevent Nuclear War (which opposes the 'freeze' and arms control) and the Committee to Stop Chemical Atrocities (which publicises the dubious 'yellow rain' allegations of the CIA). Literature from these two 'campaigns' gives the Coalition for Peace through Security (UK) address as its "European Headquarters".

The National Center distributes British Young Conservative leaflets ("Hiroshima was a nuclear free zone") and a leaflet asking: "Could the peace movement exist in Moscow? No, but it could be planned there." This comes with a poster showing Russian soldiers goosestepping across Red Square with the legend "The Soviet Union Needs You — Support a Nuclear Freeze" (American version) and "The Soviet Union Needs You — Join CND" (British version). This later version is put out under the imprint of Youth for Multilateral Disarmament which is run directly from the Conservative Party Central Office.

JULIAN LEWIS, WINSTON CHURCHILL AND THE ART OF "REVEALING NOTHING"

MEANWHILE BACK in London the Coalition for Peace through Security (UK) was building on establishment links it had made during the 'Understanding Politics' launch conference.

Dr Julian Lewis of the Freedom Association was appointed 'research director' and Francis Holihan began to move out of the picture. "You might say that my arrival and Mr Holihan's departure co-incided," Lewis told *Sanity* recently. Throughout 1982 and 83 Julian Lewis became more and more prominent within the Coalition. He has consistently refused to comment on the funding of his organisation. "We've always said we don't get any official government money and that is true," he told BBC's *Newsnight* in August 1983.

"But does your money come from only within this country," *Newsnight* persisted:

"I think when one makes a blanket statement that one is not going to reveal anything about that, one shouldn't do so," Lewis replied, adding "but we'd be prepared to take money from, y'know, respectable Western countries, providing we had control over what we did with it."

In May 1982, soon after Lewis' arrival at the Coalition, an ad-hoc "Committee for Peace with Freedom" was established linking all the anti-disarmament campaigning groups.

The new committee met monthly in Winston Churchill MP's London flat with a secretariat supplied by the Conservative Central Office. Churchill himself was given the job of co-ordinating anti-disarmament campaigning within the Conservative Party as head of the

Party's Campaign for Defence and Multilateral Disarmament. Peter Blaker MP was to play a similar role within the Ministry of Defence.

The Committee for Peace with Freedom included the following representatives:

● **Air Marshall Sir Neil Cameron,** then President of the Government-financed British Atlantic Committee.

● **General Sir Harry Tuzo,** President of the Royal United Services Institute, Director of Marconi Ltd and a member of the governing councils of the British Atlantic Committee and the Institute for the Study of Conflict.

● **Norris McWhirter,** Vice-Chairman of the Freedom Association.

● **Alan Lee Williams** of the English Speaking Union and the British Atlantic Committee.

● **Edward Leigh and Julian Lewis** of the Coalition for Peace through Security.

● **Ken Aldred,** a full time worker for the British Atlantic Committee and later General Secretary of Peace through NATO, formed when the BAC was barred from anti-CND campaigning by the Charity Commissioners.

● **Mark Priak** of the Federation of Conservative Students and Youth for Peace through Security.

● **Bill Walker MP and Lord Chalfont,** representing the 'Council for Arms Control'.

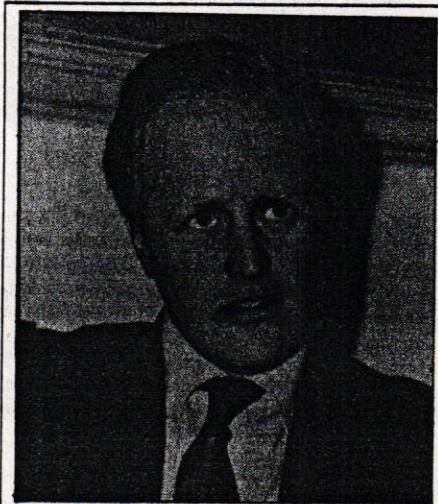
Using membership lists supplied by Conservative Central Office, the committee circulated a 'petition of welcome to President Reagan'. The Freedom Association claimed that 18,000 signatures had been collected. The petition was handed over to Ed Streater of the US Embassy on June 5th 1982 to mark the arrival of President Reagan on his state visit to Britain. Leigh, Holihan, Aldred and Conservative Party Chairman Cecil Parkinson made up the handing-over delegation.

The Coalition had been successful in this, the first part of its project. Whilst the direct impact of their activities on the peace movement was, and remains, slight, they had organised funding and official Conservative and defence establishment backing for their brash style of campaigning.

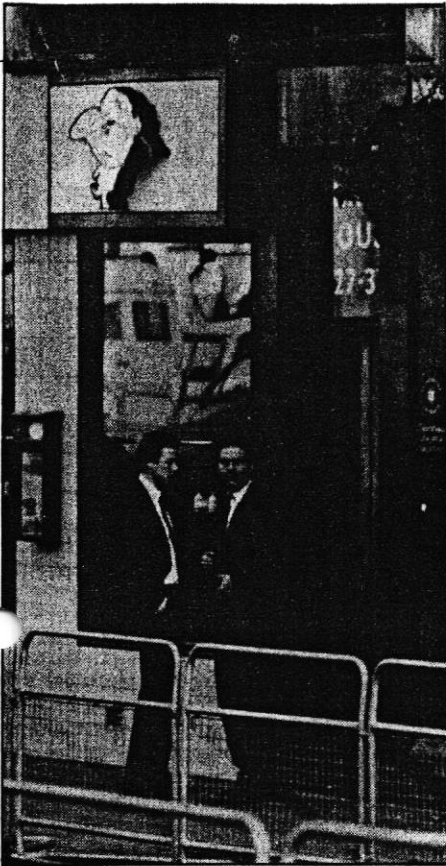
They had become a major conduit (but by no means the only or most important one) for transatlantic Cold Warriors (to use Midge Decter's term). With the General Election less than a year away the Conservative Party central



IN ORBIT: Space Weapons advocate, Daniel Graham, once claimed that "there are more liberals per square mile in the CIA than anywhere else in Washington".



CO-ORDINATOR: Winston Churchill MP was given the job of pulling together the efforts of the main anti-CND campaigning groups in Britain. The Committee for Peace with Freedom met monthly in his London flat.



LEFT: Coalition for Peace through Security (UK) director Julian Lewis and friend outside the Whitehall office, Arrow House, that he shares with the Foreign Affairs Research Institute and the Committee for the Free World. **ABOVE:** Young Conservatives on the roof of Arrow House shouting at CND demonstrators below on October 22nd 1983.

organisation had installed £250,000 worth of ICL computers, ideal for the sort of 'direct mail' campaigning used to such great effect by the American right and demanded by the CPS (UK)'s launching conference.

PRE-EMPTIVE MORALITY: HOLIHAN, HIGH FRONTIER AND THE MOONIES

IT'S CLEAR that the involvement of Francis Holihan had become a major embarrassment to the CPS. Holihan continues his work nevertheless. In October 1983 one hundred and fifty south and central American journalists were brought to London, Paris, Berlin and Bonn on what was billed as a series of 'fact-finding' seminars on the European peace movements.

The tour was paid for by C.A.U.S.A. International of Washington DC, a group associated with the *Washington Times* which began publishing in the US capital in May 1982.

The *Times* is wholly owned by News World Communications Inc., a company linked to the 'unification church' of Sun Myung Moon. The President of News World is Korean Bo Hi Pak, a senior Moon aide.

The *Washington Times* is famed for its pro-nuclear stance. In December 1982 it published an editorial claiming that Britain's CND had adopted tactics of "violent direct action" during its annual conference. The editorial linked this alleged policy shift with a current story about an attempted terrorist outrage at the Lincoln Memorial, Washington DC. The paper had got the story hopelessly, perhaps wilfully, wrong. *Reuters* reported that CND had adopted tactics of "non-violent direct action".

C.A.U.S.A. stands for Conferacion de Asociaciones para la Unificacion de las Sociedades Americanas (Confederation of Associations for the Unification of American Societies) and is also headed by Bo Hi Pak.

The organisation was founded at a conference in Montevideo, Uruguay, in November 1982. Its establishment coincided with increased Moonie interest and activity in Central America and the organisation is said to be the Latin American wing of the Moonie Organisation.

The British seminar, the last in the series, took place at the Russell Hotel, central London on October 23rd and 24th, just days before a massive CND demonstration. It was organised by Francis Leonard Holihan. Holihan claims that the one hundred and fifty journalists were "top calibre, from twenty two countries, from newspapers, magazines and TV."

The first day of the seminar took the form of a debate between Conservative MP Julian Critchley and Chatham House's Lawrence Freedman on the one hand, and E.P. Thompson and Canon Paul Oestreicher of the British Council of Churches on the other.

After the debate Thompson met a group of Brazilian journalists who told him that he was the first peace movement spokesperson they'd met during the four city tour. He had no knowledge of the activities of C.A.U.S.A. but had jumped at the chance to meet foreign journalists and debate Critchley and Freedman. Thompson told *Sanity* that "the whole thing looked a bit like a brain washing exercise".

Thompson's impressions are confirmed by a wallet of 'background' documents supplied to the journalists for their London seminar. Whilst the wallet did contain a press advertisement for the nuclear freeze movement and a re-print of a Thompson article in the *Guardian*, most of the

documents were re-prints from British and American right-wing magazines attempting to link the peace movement with Moscow.

A Coalition for Peace through Security and Freedom Association briefing paper "Thirty Questions and Honest Answers about CND" was also handed out.

But there was another treat in store for the journalists. They were given a keynote talk by Robert Richardson III, co-chairman of the US Coalition for Peace through Strength and second in command to Lt. General Daniel Graham at Project High Frontier, that space-weapons lobby group funded by the Reaganite Heritage Foundation.

Richardson introduced a film he had first shown, also with the help of Holihan, to selected journalists, politicians and MoD officials in July 1982.

"Really," Holihan told me, "the peace movement should support the High Frontier".

"It's entirely defensive, what's more," he added as though it were the entire reason for the existence of the peace movement, "you can't kill a single Russian soldier with it".

Detailing the political advantages of his space weapons plans Richardson himself has said "the peace movement can't lay a hand on it. We've pre-empted the moral high ground".

In fact, as those Latin American journalists probably weren't told, the space weapons plan shatters any hope of nuclear arms control. In giving the go-ahead for funding and research into space weapons in March of this year President Reagan tore up the 1972 anti-ballistic missile treaty, one of the few instances of significant multilateral arms control.

IN FROM THE COLD GEOFFREY STEWART SMITH AND FARI

THE ASSUMPTION of power in Washington by groups who created the new Cold War consensus was welcomed not just by new organisations like the Coalition for Peace through Security (UK). The ripples were felt by British groups who had long waited on the right wing fringes of British politics.

FOCUS: The Holocaust Lobby, UK



HANDS ACROSS THE WATER: 'nuclear strategists' at play during a typical transatlantic think-tank session organised by the Institute for Foreign Policy Analysis of Washington DC. This particular event "The Second Anglo-American Symposium on Deterrence and European Security" took place at a London hotel in February 1981. (left hand picture) Senator Sam Nunn, co-chair of the Coalition for Peace through Strength (USA) poses with Lord Newall and Geoffrey Pattie MP, junior Defence Minister. (right hand picture) FARI's Chairman Sir Frederic Bennett MP (speaking) and Director Geoffrey Stewart-Smith. About one hundred US Congressmen, British MPs, journalists, MoD and embassy officials took part.

Take Britain's Foreign Affairs Research Institute (FARI) for example. For this group the campaign against the peace movement, as such, is more or less incidental. For them the movement is just another arm of the Soviet 'global offensive' and is assessed in "security" rather than political terms.

In many ways the activities of FARI and its director Geoffrey Stewart-Smith are more sinister than those of the Coalition who moved into spare FARI offices in 1981.

Stewart-Smith formed his group in the early sixties. It was then called the Foreign Affairs Circle. At the time Stewart-Smith, an ex-Army officer and Conservative MP, was working as a journalist with the *Sunday Express* and the *Economist Intelligence Unit* — stomping ground of *Daily Telegraph* columnist Robert Moss. By 1964 the Circle was publishing a magazine called *East-West Digest*. At one time, The Dowager Lady Birdwood, the noted 'Britons First' anti-immigration campaigner, was its President.

Until 1973 the Circle was the official branch of the World Anti-Communist League (WACL).

WACL is based in Taipei, Taiwan and is led by Dr Cheng Kang, a full member of the central committee of the ruling Kuomintang party. WACL also maintains a full-time international secretariat in Seoul, South Korea, which, amongst other things, publishes the WACL magazine *Asian Outlook*.

Neo-Nazis, anti-semites . . .

WACL's Far Eastern base is the result of its earlier incarnation as the Asian Peoples' Anti-Communist League (APACL) formed in the 1950s mainly to oppose Communist China, and which, in turn was closely associated with the American Council Against Communist Aggression (a member organisation of — you guessed it — the Coalition for Peace through Strength (US)).

Stewart-Smith and the Circle broke with WACL in 1973. In Stewart-Smith's view WACL had been infiltrated by overt neo-Nazis and anti-semites. The governments of South Korea and

Saudi-Arabia had promised the Foreign Affairs Circle \$74,000 to meet the expenses of a London-European WACL conference to be held in 1974.

Stewart-Smith wrote to Ku Cheng Kang at WACL headquarters demanding that "there must be a ruthless kicking out of neo-nazis, fascists and anti-semites. If this is not done the WACL in Europe and the WACL conference in America next year will be destroyed". He never did get a reply and was left to meet £34,000 worth of conference expenses out of his own funds.

The American chapter of WACL — the American Council for World Freedom (another member organisation of the Coalition for Peace through Strength) — broke away at about the same time.

But the WACL was not destroyed. It goes from strength to strength. And in 1980 the organisation received the blessings of none other than Al Haig, Reagan's first Secretary of State. Haig was invited to the fourteenth World Anti Communist League Conference in Switzerland, June 1980.

"While I clearly support the ideals and goals of the WACL," he wrote, "I must regretfully decline your invitation due to my recent commitments to the United Technologies Corporation and its shareholders and the disruption to my schedule caused by my recent heart surgery."

"Your kind words of esteem have given me great pleasure, and I would like to convey my best wishes for what I know will be a most successful conference."

Stewart-Smith was quickly able to make good his losses on the WACL conference that never was. FARI claims to be financed by industry and has a budget of £70,000 a year. But it has also had financial assistance from the US Government in the form of grants to hold its annual "World Balance of Power" conferences in the top security conference centre, Leeds Castle, Kent.

These remarkable conferences have been taking place each year since 1980. The first conference was entitled "Towards a grand strategy for global freedom". There is seldom

any press coverage — perhaps one or two photographs in the *Telegraph* under headlines like "defence experts meet" — despite the fact that plenty of journalists attend and despite the extraordinary nature of the conferences.

CIA liberals

The 1982 conference, for example, which took place, according to FARI documents, between July 21st-25th, attracted eighty five ministers, ambassadors, heads of strategic studies and others from twenty six countries. It was organised by FARI and "twelve strategic studies institutes from the USA, Japan, Britain, West Germany, France, Indonesia, Pakistan, Canada and Portugal".

That year those attending included:

● **Dr William Scott Thompson**, Associate Director of the US International Communications Agency, an official US government body which provides a news service for newspapers, TV and Radio and which funded the FARI conference.

Dr William Scott Thompson is associated with a wide range of anti-disarmament campaigning groups including the Committee on the Present Danger, the Committee for the Free World, the National Strategy Information Centre and its Consortium for the Study of Intelligence Requirements.

At the 1982 "World Balance" conference, according to a FARI report on the event, Thompson welcomed the replacement of the concept of 'containment' of Communism by the Reagan administration, by the doctrine of 'roll-back'. He advocated the overthrow of the Soviet government.

Thompson's USIA has funded a great many organisations hostile to the peace movements and active outside the USA. \$192,145 went, for example, to Ernest Lefever's Ethics and Public Policy Centre in September 1982 to hold conferences on the morality of nuclear weapons in Europe, including Britain. This was followed by another \$41,530 for overheads.

\$30,305 went to the National Strategy Information Center to fund trips by American 'social democrats' (including the ubiquitous Midge Decter) to the Socialist International.

The exact amount given towards the cost of FARI's conferences remains undisclosed. Christopher Snow of the US Embassy in London confirmed that the payments were made "to cover the costs of US citizens attending the conference", but said that precise figures were unavailable.

● **Daniel Graham and Robert Richardson III** of the High Frontier Project and the American Foreign Policy Institute — the "core" organisation of the Coalition for Peace through Strength (USA).

● **Dr Edwin Feulner**, President of the Heritage Foundation, USA.

● **J William Middendorf II**, US Ambassador to the Organisation of American States. Middendorf is a member of the executive committee of the Coalition for Peace through Strength whose parent body, the American Security Council, featured him in a film about the situation in Central America entitled "Attack on the Americas".

● **Others** included Crown Prince Hassan of Jordan, General Shigeto Nagano of Japan and Britishers Dr Ewan Anderson of Dufham University, Tom Normanton MP and Vice Admiral Louis Le Bailey of the Institute for the Study of Conflict.

The 1980 conference, which also took place at Leeds Castle, had the pleasure of hearing Frank Barnett, whom Stewart-Smith claims as a personal acquaintance. Barnett is head of the American National Strategy Information Centre (NSIC). As far back as 1976 Barnett wrote to Eugene Rostow, later to become Reagan's head of the US Arms Control and Disarmament Agency (and then sacked apparently for being 'too soft'), urging him to join the NSIC board of directors.

"You should know," Barnett wrote, "we've been granted \$1 million to crank up an all out effort to meet the current and growing threat from the USSR — whether military, ideological or economic".

Rostow responded by saying that he was

already busy helping to form the Committee on the Present Danger and that the two organisations would work together. He also volunteered the thought that "we are living in a pre-war and not a post-war world and our posture today is comparable to that of Britain, France and the United States during the thirties". This notion, of course, has become one of the most abiding concepts of the Cold Warriors.

Also at the 1980 FARI conference was Ray S Cline, Executive Director of "World Power Studies" at the Center for Strategic and International Studies, Georgetown University.

Cline, too, is a close associate of Barnett's National Strategy Information Centre and, in particular, NSIC's Consortium for the Study of Intelligence Requirements.

It was this latter body which led the mid-seventies attack on the CIA which was crucial to the establishment of the new Cold War consensus and the undermining of old 'containment' and arms control consensus (the notorious 'B Team' affair — see *Sanity*, October 1983, p.21).

The Consortium claimed that the CIA had underestimated elements of Soviet military strength. This claim had to be established before the base-line of 'growing Soviet superiority' could be drawn. At the time Lt. General Daniel Graham (it's that man again), a NSIC director, claimed that "there are more liberals per square mile in the offices of the CIA than anywhere else in Washington".

Millions of campaigning dollars were put into the campaign to discredit the 'liberal' CIA. The campaign succeeded. And in the shake up that

followed Ray S Cline was appointed deputy director of the CIA.

In February 1981 Geoffrey-Stewart Smith reflected on the victory of the Cold Warriors in the USA.

In a FARI policy paper entitled "The need for a new war-winning nuclear strategy" he opined:

"Certain Western defence analysts in the past have propounded the view that the use of nuclear weapons is completely irrational as an instrument of policy; that the Soviet leaders are to be trusted and that the Soviet threat, if it exists at all, can be resolved by means of detente and arms control. Everything is reconcilable, they have maintained.

"This utterly irresponsible wishful-thinking occurred in the past in the highest levels of the United States Government and was accepted by the European NATO countries, thereby affecting NATO's nuclear doctrine and strategy.

"Europe must make a greater contribution to global strategy," he concluded. "This is no time for defence cuts or for individual NATO countries in Europe to debate whether they will accept United States theatre nuclear forces on their territory."

In his TV statement following the screening of *The Day After*, Michael Heseltine said:

"Deterrence means the one certainty is that there will never be a winner in a nuclear war. Both sides know it. We have maintained the peace because of it."

Reassuring words for consumption by the general public.

But has Mr Heseltine really broken with the nuclear war-fighting, war winning Holocaust Lobby?

The South African Connection

The Foreign Affairs Research Institute has always played an important part in pro-South African propaganda and political organisation in this country. The ground floor of FARI's offices are used by an international removal firm, Stewart and Harvey, who specialise in removals to South Africa. Visitors to the Stewart and Harvey offices are given leaflets explaining the benefits of changing currency into and out of South African Rands.

In June 1978 FARI jointly sponsored a conference in Brighton. C.F. de Villiers, director of the South African Foreign Affairs Association attended. Soon afterwards this organisation was exposed as a South African government 'front', secretly funded by the South African Department of Information.

FARI was in more or less continuous contact with the South African FAA until it was disbanded following the Muldergate scandal. FARI arranged a list of British politicians, including Lord Chalfont, who toured South Africa as the guests of the FAA.

When the scandal broke FARI's Geoffrey Stewart-Smith claimed that he had been "conned". He claimed that he'd always been under the impression that the FAA was privately funded. FARI's objective, Stewart-Smith said, was to carry out research 'right across the board' and that his group was in contact with many similar institutes in other countries.

"Many of these institutes are government financed," he said, "and you can draw what conclusions you like from that. We do not object to it".

Sir Frederic Bennett, chairman of FARI, was unavailable for comment at the time, but his secretary told *Sunday Telegraph* reporter Paul Williams that Sir Frederic got to know Dr Dennis Rhoddie, a brother of Dr Eschel Rhoddie, when he was director of information at the South African Embassy in London in 1975 or 1976. Eschel Rhoddie, of course, was the man who masterminded 'Muldergate'. Sir Frederic also has a long term interest in Southern Africa. He served at the Rhodesian Bar in the 1940s and is a director of the South African Kleinwort Benson corporation.

South African professor T.D. Kunert was a keynote speaker at FARI's 1980 "World Balance of Power" conference in Leeds Castle. His theme was an abiding FARI pre-occupation — the need to bring South Africa out of partial isolation into a world-wide "Tri-Oceanic" military alliance.

FARI and its publishing company, the Foreign Affairs Publishing Co. Ltd., have also contributed to South Africa's campaign against the World Council of Churches and its programme to combat racism.

The Foreign Affairs Publishing Co is the British publisher of a book entitled *The Fraudulent Gospel — Politics and the World Council of Churches* which accuses the WCC of 'financing terrorism'. The WCC, the book concludes, and it's "fraudulent theology is sufficient proof that the WCC is anti-Christ". The South African publisher of the same book, sharing print runs with FARI, was the Valient Publishing Co. In turn Valient was the publishing arm of another Freedom

Foundation. This, like the South African Foreign Affairs Association, closed following the Muldergate revelations.

Other FARI sympathisers have extensive South African links. Sir Patrick Wall MP, for example, a frequent contributor to FARI's ceaseless stream of background briefing papers. Sir Patrick spoke at a Christian League of South Africa meeting held in Carlton Hall, London, in 1979.

Gordon Winter, the former South African spy, has claimed that "The Christian League was one of the secret projects illegally set up... by the South African government. It is secretly funded through the South African Defence Budget."

Referring to the League's London meeting, Winter says of Sir Patrick, "he has been a staunch friend of South Africa for many years. Mr Wall is also a former board member of *To The Point*, the South African magazine which, whether Mr Wall knew it or not, was a complete front for the South African government. The Erasmus Commission found that *To the Point* had been secretly set up by the South African Information Department and illegally funded with nine million pounds of South African taxpayers' money."

Other documents uncovered by the Erasmus Commission included a list of secret projects funded illegally by the South African Department of Information. Project G26P was entitled "Foreign Policy Research Institute (London)".

Dear Sanity

Bitter Irony

Dear Sanity,
Mr Heseltine remarked in a recent TV interview that peace movements had failed to achieve any of their objectives. It is ironic that he should have said that because in the event it is the Government which has failed.

The policy is threatened rearmament as a prelude to arms reduction talks; of continual escalation as the means of enhancing national security, that's what has failed.

Geoffrey Howe said that the Soviet walk-out at the INF talks had made the world less safe. It is, of course, the dogged determination of certain European governments to deploy Cruise and Pershing-II (against the wishes of the majority) which is making the world a less safe place.

Brian Curtis
London W2

Train cancellations

Dear Sanity,
I am writing on behalf of the guard members of the Brighton joint branch of the National Union of Railwaymen. There seems to have been some misunderstanding about the running of special trains from the south coast to London for the CND rally on October 22nd, during a dispute with the BR management.

I was present when the local shop stewards committee told management we would let the required guards work on October 22nd, to run the trains.

Management said they could see no problems as long as the guards accepted a day's pay for the work.

It was agreed that we should pick the guards and give the pay to the Railway Woking Home for Children. When we arrived on Friday evening we were told that the CND trains had been

cancelled. We went at once to see the local manager who told us that the trains had been cancelled by Divisional Management, and there was no way they would run then.

I can only apologise for any problems this may have caused for CND members, but our action against the BR management was necessary to get justice for one of our members. The Management's action could only have been done to try and turn people against what we were doing. I hope this will help readers to understand we had no wish to stop your trains, and a number of our members went to the rally by coach or car.

S J Wescott,
Branch Secretary,
Brighton Joint Branch NUR,
Upper Beeding,
West Sussex.

Police and 'suspicious' persons

Dear Sanity,
Recently you carried some letters about the relationship between CND and the Police. One letter from the 'Big Flame Anti Nuclear Group' criticised the way people had casual conversations with the Police at Upper Heyford. A number of replies were printed saying that the Police should be engaged in discussion to either bring them into CND or to follow the strategy of non-violence.

I support the views put by the 'Big Flame' group for three reasons.

First the Police as a force are anti-CND and will act generally to defuse, contain and make ineffective our campaign.

Secondly, individual policemen and women are not easily winnable to CND. They are highly trained to do a job. Kenneth Newman has stated he wants every beat bobby to have a list of names, with photos, of every 'suspicious' person on their 'patch', and to keep close watch on their movements. CND members are highly likely to be on these lists.

Lastly it's not non-violent to talk to police officers. The police will and have used violence against CND. The Stop the City demonstration is one very clear example of this. Intimidation is part of their tactics. By feeding them with

even more information, we will be allowing them even more space in which to use their violence. The women at Greenham have stopped their chats to the police since the pressure from the police has been heavily stepped up against them.

The only real way to reduce violence in our society is to build a mass movement for unilateral disarmament in this country, and this is where we need to channel our energies, not in talking to the Police.

Peter Kemp
Peckham CND
London SE15

Danes neglected

Dear Sanity,
Thank you for announcing in the November edition the big demonstration of October 29th in Denmark.

I should like to point out that this event was organised by the Trade Unions for Peace, No to Nuclear Weapons and National Campaign - Stop Nuclear Missiles. You overlooked to mention the last organisation. This correction is important as several hundred activists groups affiliated to National Campaign - Stop Nuclear Missiles should not feel neglected.

On October 29th more than 200,000 persons repeated with determination "Stop the 572 missiles". It was the biggest event ever to happen in the country.

Jan Madsen
Secretary, Landskampagnen
"Stop atomraketterne",
Copenhagen, Denmark.

Lush flush

Dear Sanity,
I understand that Lady Olga Maitland's pro-nuclear-weapon group attracted a gathering of something under 200 people to a meeting in Trafalgar Square on the morning of October 22nd.

I draw no conclusion as to content but it does occur to me that during the afternoon of that day, I saw about as many people gathering patiently in Hyde Park, waiting to use the loos.

Mike Cooper,
Warwick,
Warwickshire.

CND and black people

Dear Sanity,
I was very interested in David Polden's report on the lack of involvement of black people in the Campaign for Nuclear Disarmament. But I was struck by that feeling of having heard it all before.

The interviewees fell into three distinct categories: the ditherers, the excuse-makers and the committed.

To the ditherers I say, time is short. If you hesitate much longer it will be too late. Occupying your mind with personal problems is fine if you're alive to do it.

To the excuse-makers I say there is no such thing as non-involvement. You are here, alive in this place today. You will be dead and gone tomorrow unless you shake yourself from your complacent stupor.

To CND office holders I say that any minority ethnic, social or common-interest group which is sufficiently co-ordinated to hold its own meetings should be a prime target for a rolling campaign of information.

Secondly you must not deviate from your main principle of being a single-issue campaign. Motions at conference on racism are no more relevant than feminism, catholicism or any other "ism".

If black people feel they can only support CND through their blackness, then they are free to form their own groups and come under the CND umbrella which already shelters Christians, pagans, trade unionists, etc.

Rose Smalley
Sale, Cheshire



CARLOS AUGUSTO/IFL

6 Kasım'da Türkiye'de genel Seçimler yapılmıştır. Bu seçimler öncesinde ve sonrasında, onun antidemokratik niteliği üzerine gerek Türkiye ve gerekse Avrupa demokratik kamuoyu çeşitli açıklamalarda bulundular. Bu seçimler ⁱⁿ Türkiye'de demokrasiyi getirmeyeceği ve halkın gerçek iradesini yansıtmayacağı üzerinde durdular.

Avrupa Konseyi 1983 Eylül oturumunda bu seçimler sonucu gelecek olan ~~meclisin~~ parlamento'nun "Türkiye halkının demokratik olarak seçilmiş temsilcisi kabul edilemeyeceğini ve göndereceği delegasyonun Avrupa Konseyi Assamblesi çalışmalarına katılmayacağını" belirlenen bir karar aldı.

Türkiye'de 6 Kasım seçimlerinden sonra, General Evren Cuntası'nın ileri sürdüğü gibi, gerçekten demokrasiden yana bir adım atılmış mıdır? Bunu söylenen sözlerle göre değil, ülkede sürdürülmekte olan somut uygulamalara bakarak değerlendirmek gerekiyor.

SEÇİMLER HANGİ KOŞULLARDA YAPILDI

6 Kasım seçimleri, 12 Eylül 1980'den beri iktidarı elinde bulunduran ve adım adım faşist nitelik kazanan Cuntanın yayımladığı bir dizi yasa ve kararnameler ve yürüttüğü uygulamalarla ülkede faşist bir düzen yasa ve kararnameler ve yürüttüğü uygulamalarla ülkede faşist bir düzen oluşturulmasından sonra yapılmıştır.

Bir yandan ülkede davalar, insan hakları ihlalleri ve baskılar artarak sürdürülmüştür. Öte yandan seçime katılacak partiler ve adaylar sınırlandırılmıştır. Gerçekten 18 siyasi parti cunta tarafından ya tamamen kapatılarak ya da seçimlere katılımını önleyecek veto uygulamaları ile seçim dışı bırakılmıştır. Böylece seçime yalnızca üç partinin katılmasına olanak tanınmıştır. Bu üç partinin birinin başkanlığı bir general; öteki ikisinin ise, Cunta Hükümeti'nin sorumluluğunu paylaşmış kişiler tarafından üstlenilmiştir.

Eski başbakanlardan Adalet Partisi (Muhafazakâr) nin Genel Başkanı Süleyman Demirel'in deyimiyle Cunta Hükümeti Başbakanlığı'nın iki odasından iki parti başkanı çıkarılmıştır. Bunlar 12 Eylül Cunta Hükümetinin ekonomik işlerden sorumlu Başbakan Yardımcısı Turgut Özal (bugünkü başbakan) ile yine Cunta Hükümetinin Başbakanlık müşaviri ve seçimlerde ikinci sırayı alan Halkçı Parti'nin Genel Başkanı Necdet CALP'tır. Üçüncü partinin Genel Başkanı ise General Evren'in yakın mesai arkadaşlarından General Turgut Sunalp ^{üstlenmiştir.} ~~yüklenmiştir~~

Cunta bununla da yetinmemiş, her üç partinin milletvekili adayları ile bağımsız adayları üzerinde veto yetkisini kullanmıştır. Böylece 2163 adaydan 937'si veto edilmiştir. Veto yetkisi özellikle bağımsız adaylara yöneltilmiş ve 483 bağımsız adaydan 428'i veto edilerek seçimlere katılması engellenmiştir.

Seçimlerden ağır baskılar altında yapılmıştır. Seçim propagandası sırasında cunta ve döneminin eleştirisi yasaklanmış, seçime katılmak zorunda bırakılmıştır. Seçimlere katılmama ya da geçersiz oy verilmesi yolunda propaganda yasaklanmıştır.

Buna rağmen, kendi açıklamalarına göre, 1 milyon dolayında geçersiz oy çıkmış, 1,5 milyon seçmen de sandık başına gitmemiştir.

ÖZAL'IN SEÇİMLERİ KAZANMASI DEMOKRATİK BİR ADIM MIDIR ?

Kimileri Özal'ın kazanmasını Cuntaya karşı demokratik bir adım olarak görme eğilimini dile getiriyorlar. Bu eğilimin en baş dayanağı olarak da General Evren'in seçimlerden hemen önce yaptığı son konuşmasında Özal'ı eleştirdiğini gösteriyorlar.

Elbette Evren'in bu konuşmasına karşın, 6 kasım seçimlerinde halkın oylarının, seçmek zorunda bırakıldığı üç partiden Özal'ın partisine koyması bir anlamda halkın Cunta'ya ve onun uygulamalarına olan tepkisinin dile getirilmesidir. Ancak bunun böyle olması seçimleri de seçim sonuçlarını demokrasiye doğru bir gelişme olarak görmeye hak vermez. Açıkça görüldüğü gibi seçimlere katılmasına izin verilen üç parti de Cunta'nın izni ve yönlendirmesiyle kurulmuştur.

KALDI KI EVREN SEÇİM ÖNCESİNDE YAPTIĞI BİR KONUŞMADA HALKA AÇIKÇA ŞÖYLE SÖYLEMİŞTİR: "EĞER SİZİN GERÇEKTEN OY ATACAĞINIZ PARTİ SEÇİMLERDE YOKSA, O PARTİYE EN ÇOK BENZEYENE OY ATACAKSINIZ. AMA ÜLKENİN SAĞLIĞI İÇİN BU ÜÇ PARTİDEN BİRİNE OY ATMANIZ SİZİN GÖREVİNİZDİR".

~~ve bu parti de yönlendirilmesinde kurulmuştur.~~

Böylece 6 Kasım seçimleri ve Özal'ın partisinin çoğunluğu kazanarak hükümet kurması Cunta'nın bir elbise değiştirmesinden başka bir değişiklik getirilmemişti. Nitekim seçimlerden sonradan da, 12 Eylül hükümet darbesi arkasından oluşturulmuş olan, ne sosyo-politik, hukuksal yapılanmada ne de insan hakları ihlalleri ve haksız yargılamalarda en küçük olumlu bir adım görülmemekte, tersine, bu antidemokratik faşist yapı ve uygulamalar sürdürülmektedir.

Cuntanın tüm aparatı, 6 Kasım seçimleri sonunda oluşan parlamento ya monte edilmiştir. Cunta'nın Evren dışında kalan üyeleri, Cumhurbaşkanlığı Konseyi Üyesi sıfatını almışlardır. ~~Böylece Cunta'nın ve albise değişikliği ile "demokratikleştirilmiştir" (1)~~. Gene cuntanın sekreteryası çalışmakta ~~oldukları~~ askeri binadan Parlamento'ya taşınmışlardır. Böylece Cunta tüm ~~oldukları~~ üyeleri ve kadrolarıyla 12 Eylül 1980 öncesi parlamento binasındaki Cumhuriyet Senatosu bölümüne yerleşmiştir. Hem de öylesi bir gizlilik, dokunulmazlık ve üstünlükle yerleşmiştir ki, bu bölüme halkın temsilcisi olduğu iddia edilen yeni milletvekillerinin girmesi, hatta orayı gezmele bile yasaklanmıştır. ~~6 Kasım seçimleri~~ 6 Kasım seçimleri, kendi parlamento binalarında bile özgürce dolaşma yetki ve hakkından yoksun milletvekillerinin sandıktan çıktıkları bir seçim olmuştur. Böylece, parlamento paravanası arkasına gizlenen cunta, kendi iktidarının somut önlemlerini de almıştır.

CUNTA'NIN SEÇİMLERDEN SONRA ÇIKARDIĞI YASALAR

Cunta, seçimlerden sonra çıkardığı yasalarla üç yıldanberi sürdürdüğü yasaklar zincirine yeni

- 5 -

halkalar eklemiştir.

Bunların kayda değer olanlarının başında 6 Aralık 1983 günlü "12 Eylül 1980 öncesi siyasi çekişme ve çatışma ortamına benzer bir durumun önlenmesi" hakkında yasa ~~geliştirilmiştir~~ ile Basın Yasası ~~geliştirilmiştir~~ ile ^{Birinci yasada} ~~bu yasa da~~ genel olarak politik eleştiri ve görüş açıklama hakkı ağır yasaklamalar ~~getirilmiştir~~ ^{geliştirilmiştir}.

Bu yasaya göre :

- 12 Eylül sonrasında kapatılan siyasi partilerin üyeleri, ister yönetici olsun, ister yönetici olmasın partilerini ya da kendilerini savunma amacıyla bile olsa 12 Eylül öncesi siyasi çekişme ve çatışma ortamının yeniden doğmasına yol açıcı, sözlü ya da yazılı herhangi bir açıklama da bulunamayacaklardır.

- Siyasi parti üyesi olmayanlar da aynı yasaklama kapsamına ~~alınmış~~ ^{giriş} sokulmuşlardır.

- Ayrıca, Parlamento'ya girebilmiş ^{izinli} üç ~~seçilmiş~~ parti de dahil olmak üzere parlamento dışında kalmış ya da ileri de kurulacak siyasi partilerin yöneticileri de aynı yasaklama içine alınmıştır. Böylece Cunta ileriye yönelik olarak halen kurulu olan ya da sonradan kurulacak partileri sürekli baskı ve her an kapatılma tehdit ve tehlikesi altında tutmaktadır.

Bu kadarla da yetinilmemiştir. Bir adım daha atılarak Milli Güvenl Konseyi'nin (Cunta'nın) karar, bildiri ve uygulamaları ile 6 Aralık 1983 gününe kadar ki süre içinde ~~Milli Güvenlik Konseyi~~ ^{Milli Güvenlik Konseyi} nin başkan ve üyelerinin açıklamalarını sözlü ya da yazılı olarak kötüleyici veya küçük düşürücü herhangi bir tartışma veya eleştiri yapılması da yasaklanmıştır. ~~Ayrıca~~

Ayrıca Cunta, üç yıllık uygulamaları, çıkardığı yasa bildiri ve açıklamalarından dolayı suçlanamayacağını, sorumlu tutulamayacağını ve bu yasa, bildiri ve açıklamaların Anayasa'ya aykırılığının öne sürülemeyeceğini de yasalastırmıştır. §

Daha önce hatırlanmış olağanüstü baskı koşulları altında oylandır yapılan referandum sonucu halkın kabul ettirilen Anayasa'nın,

geçici 4 ncu maddesinde 10 yıllık siyaset yasağı kapsamına alınan eski politikacıların Türkiye'nin iç ve dış politikasını etkileyecek açıklamalarda bulunmaları da ^{bu yasa ile} yasaklanmıştır.

Basın Yasasına Geline :

10.11.1983 tarihinde, 6 kasım seçimlerinden sonra çıkarıldığı Basın Yasası ile Cunta, Türkiye'de basın özgürlüğünü en ağır bir biçimde baskı altına almıştır. Bu yasaya göre örneğin,

- Hükümetlerin izni olmadan ekonomik bilgilerin bile yayınlanması bir gazete veya dergi için kapatılma nedeni olabilecektir.

- Bu yasaya uygun olmadığı iddia edilebilecek bir yayın durumunda gazeteler veya dergiler gazete ve dergiler toplatıldığı gibi, matbaalara ve basın alet ve makinalarına da el konabilecektir.

- 12 Eylül darbesi öncesinde basın davalarının özel nitelikleri nedeniyle işlerlikte bulunan "Basın İktisat Mahkemeleri" de kaldırılmış ve yetki ceza mahkemelerine bırakılmıştır.

Ayrıca filmler için çıkarılan yeni tüzükle :

- Bir senaryo ya da bitirilmiş bir film sansürden geçirilmekle kalmamakta, hatta çekim sırasında ~~bu görevinin~~ sansür kurulundan bir görevlinin sürekli denetim yapması hükmü getirilmektedir.

~~Milliyet~~ Yürürlükte olan bu mantığın uygulamalarının bir örneği geçtiğimiz haftalarda, Emekli bir General olan Türkiye Radyo Televizyon Genel Mü-

dürünün, ünlü bir Türk romancısının ulusal Kurtuluş Savaşı konusunu edinen romanından Televizyon için yapılan bir filmi, programdan çıkarmak ve yasaklamakla kalmayıp, tüm kopyalarını da yakıtılabilmektedir.

Burada da görüldüğü gibi çağdaş anlayışla hiçbir ilişkisi olmayan ve ⁴⁵⁻⁵⁰ yıl öncesinin kitap yakma olaylarının andıran işlemler Türkiye'de bugün de sürdürülmekte ve yasalaştırılmaktadır.

Nitekim Uluslararası Basın Enstitüsü tarafından aynı günlerde yayınlanan bir araştırmaya sonucuna göre, Şili gibi faşist yönetim altındaki ülkeler de içinde olmak üzere basına en ağır baskıların uygulandığı ülkelerin başında Türkiye gelmektedir.

6 KASIM SEÇİMLERİYLE NE DEĞİŞTİ

Cunta'nın 6 Kasım seçimlerine kadar üç yıllık baskı bilançosunu en genel biçimde şöyle özetleyebiliriz :

- Politik nedenlerle sorguya çekilenler : Yaklaşık 200.000 kişi,
- Hapishanelerdeki mahkum sayısı (resmi rakamlara göre) 80.000 den fazla . Bunlardan 30.000 dolayında kişi politik suçlarla tutuklu,
- Politik nedenlerle arananlar 6.000 kişi,
- Son üç yılda idam edilenler 47 kişi,
- Sıkıyönetim mahkemelerinde idam istemiyle yargılananlar : 6355 kişi
- Kesinleşmiş ve onay bekleyen idam cezaları sayısı : 214 kişi,
- Vatandaşlıktan çıkarılan veya çıkarılma işlemleri yürütülenler : 1200 ile 1300 kişi arasında,

- Bu listeyi daha uzatmak ve ayrıntılamak kuşkusuz olanaklıdır.

Dikerdem yanında İstanbul Baro Başkanının, dekanların, profesörlerin, milletvekillerinin, gazetecilerin, yazarların ve seçkin kişiliklerin yargılandığı Barışseverler davası 6 Kasım seçimle-
rinden sonra karara bağlanmış, bu kişiler 8 yıla varan ağır hapis cezalarına ve ek olarak sürgün cezalarına mahkum edilmişlerdir.

9/a
Hükümet programında Özal; " 6 Kasım seçimleriyle Türkiye'nin demokratik rejime olan bağlılığı bir defa daha ispat edilmiştir. Türkiye Büyük Millet Meclisi'nin çalışmaya başlaması ile normal demokratik nizamın yeniden işlerlik kazanmasından sonra Avrupa Konsayı ile ilişkilerimizin normalleşmemesi için bir sebep kalmamıştır" demektedir.

Özal, tek kıstas olarak seçimleri ve meclisin çalışmasını gösteriyor. Oysa Cuntanın kurduğu faşist devlet yapısı varlığını korumaktadır. Cunta Anayasası, yasaları ve Anayasa gücündeki kararnameleleri yürürlükte dir. Özal, bu yapıda bir değişik yapılabacağından programında tek kelime ile bile söz etmemektedir. İnsan hakları ihlalleri, işkenceler, soruşturmalar, savaş hali usulü ile yürütülen haksız yargılamalar sürmektedir. Onblerce politik tutuklu hapsenelerde bulunmaya devam ediyorlar. Cunta, parlamento binasının içinde parlamenterlerin bile girmesine izin verilmeyi kapalı kapılar arkasında iktidarı elinde tutuyor. *Nitelikli parlamento*

*konan atardığı ilk yasaından "yerel seçimler yasaası"
nın Cuntada taraf Cuntanın Başlı Erken tarafından veto
adiluresi bunun bir örneğidir*

AVRUPA KONSEYİ VE TÜRKİYE

9/6

Oysa ~~Demokratik~~, bütün bu olgular yokmuş gibi davranılıyor, demokrasiye dönüşten ve Avrupa Konseyi ile ilişkilerin iyileştirilmesi ^{ediliyor} söz ediliyor. Doğaldır ki, ^{demokrasi konusunda,} Avrupa Konseyi üyesi devletlerin bu bölümü için başka, diğer bölümü için daha başka bir ölçü olamaz. Tüm üyeler için geçerli tek bir ölçüye uyunduktan sonra ilişkilerin normalleştirilmesinden söz edilemez.

- Hangi Avrupa Konseyi Üyesi ^{ülkede} devlette Türkiye'de olduğu gibi Cunta Anayasası, yasa ve kararnamele ile oluşmuş bir devlet yapısı normal bir demokratik rejim olarak takdim ediliyor? ~~devletin~~ ^{ülkede}

- Hangi üye ^{ülkede} devlette Türkiye'de olduğu gibi işkenceler, politik idamlar, onbinlerce politik mahkum ve tutuklular, soruşturma ve yargılamalar sürmektedir?

- Hangi Avrupa Konseyi ülkesinin demokratlara bu tür uygulamaları kendi ülkesi ve halkı için kabul

veletişim idaresi

edebilir ve bu biçim değişimlerini demokrasiye dönüştürerek sunabilir?

Bu durumda :

- Cunta'nın dayattığı Anayasa ve yasalar yürürlükte kalmamalıdır,
- Gönül mekte olan haksız davalar durdurulmalıdır,
- İdam cezalarına, işkencelere, insan haklarının çiğnenmesine son verilmelidir,
- Kırt halkı üzerinde özel olarak sürdürülen ağır baskılar ve antidemokratik uygulamalar durdurulmalıdır,

Derhal bir of cila ^{Politik} ~~ipadip~~ hapse konulmuş onbinlerce tutuklu serbest bırakılmalıdır ve yurt dışındaki göçmenler politik göçmenler güvencisi içinde ülkeye geri dönmelidir,

- Her türlü düşünce örgütlenme örgütleneleri, temel insan hakları tanınmalıdır,
- demokrasiye dönüş sözleri, Türkiye'deki durumun Avrupa Konseyi Statüsüne uygun olduğu ve Avrupa Konseyi ile ilişkileri düzeltme koşullarının oluştuğu sözleri, içeriği olmayan sözler olarak kabul edilmeli, mahkûm olmalıdır. Halkımız farklı ölçütlerin uygulandığı "ikinci sınıf bir halk" olarak görülmemelidir.

DEMOKRASIYE DÖNÜŞÜN İLK KANITI ?

Cunta Anayasasının 87. maddesi bu parlamentonun düşünce suçlarından mahkum olana af çıkarmasını yasakla-
maktadır.

Oysa o binlerce insan faşist Mussolini yasasından aktarılmış yasalarla düşünce suçundan mahkum veya tutuklu olarak hapishanelerde bulunuyor.

Cunta iktidarının geçekten sonra eddiğini, 6 kasım seçimleriyle oluşan parlamentonun geçekten demokrasiye dönmeye kararlı olduğunu ^{ileri} ~~ittikar~~ ^{sürebilmek} ~~amanda~~ derhal bir genel af çıkarılması ve yukarıda belirttiğimiz demokratik istemlerin yaşama geçiril-
meye başlanmalıdır. başlanmasıyla olanaklıdır.

Oysa hükümet programında bunlara hiç değinilmiyor. Hatta af ile ilgili her türlü haber yorum ve başka bilgilerin gazetelerde yayınlanması Sıkıyönetim Kumandanlıklarınca yasaklanmıştır, ve , ~~geçtiğimiz~~ günlerde Hükümet Başkanı'nın yaptığı basın toplantısında ve ayrıca Dışiş-
leri Bakanı'nın bir demecinde de görüldüğü gibi hükümet bu konuda hiçbir ~~kaygı duymuyor ve eski durumu olduğu gibi sürdürme isteği gösteriyor.~~
eski durumu olduğu gibi sürdürme isteğindedir.

Sayın parlamenter,

Kaçınılmaz olarak biraz da uzun olan bu açıklamalarımız, sizlere ülkemizdeki durumun bir de bu yönleriyle gösterebilme kaygımızdan kaynaklanıyor. İnsan haklarının savunma ilkeleri üzerine kurulan Avrupa konseyinin siz sayın parlamenterlerinin bu kaygıya kaygılarımızı görünüme alacağına inanıyoruz.

Saygılarımızla

TÜRKİYE SOSYAL
TÜSTAV
TARİH ARAŞTIRMALARI

Sayın Parlamento,

Avrupa Konseyi'nin Ocak 1984 oturumunda Türkiye'deki durum ~~hakkında~~ gündemdedir. 6 Kasım seçimlerinden sonra oluşan ortamda Asambleenin Türkiye'deki durum hakkında alacağı karar bir beluma tarihli bir anketi taşıyacaktır.

Bu nedenle birer 12 Eylül 1980 hükümet darbesinden sonra Türkiye'den çıkarak zorunda ~~bulunan~~ ve halen Avrupa'nın çeşitli illelerinde Politik Öğrenci olarak yaşayan sendika ve diğer örgütlerinin temsilcileri olarak, daha önceleri oturumlarda olduğu gibi, sizlere bir kez daha seslenmek istiyoruz

BASINA AÇIKLAMA

Avrupa Konseyi

10 Mayıs 1984

Delegasyonumuz ortak
açıklamalar

10 Mayıs 1984

STRASBOURG

Türkiye Demokrasi güçlerinin önemli kesimini temsil eden, ekli listede ad ve örgütsel konumları yazılı kişilerden oluşan delegasyonumuz, Avrupa Konseyi 36. Dönem çalışmalarını yakından izledi; çeşitli etkinliklerde bulundu. Konsey üyelerine, politik gruplarına, ihtisas komisyonlarına Türkiye'deki politik gelişmelerle ilgili bilgi verdi, alınacak kararlara ilişkin görüşlerini iletti.

- Konsey Başkanı Karl Ahrens'in düzenlediği bir toplantıda siyasi işler komisyonu başkanı Baumel ile raportörü Steiner ve hukuk işleri komisyonu başkanı Elmquist, raportör Stoffelen ile görüştü.

- Hristiyan demokratlar da aralarında olmak üzere Konseyde temsil edilen politik grupların başkan ve yöneticileri ile ayrı ayrı toplantılar yaptı.

- Sosyalist grup ile ortaklaşa basın toplantısı düzenledi. Toplantıya çok sayıda Türkiye'li ve yabancı basın mensupları, etkili Konsey üyeleri katıldı.

- Türkiye'de Genel Politik Af istemini Konsey'e daha iyi duyurabilmek amacıyla Türkiye ve Türkiye Kürdistan'lı işçilerin, ilericilerin yığinsal olarak gerçekleştirdikleri, ayrıca diğer ilerici örgütlerin desteklediği yürüyüşe katıldı.

- Başta genel politik af, işkenceler ve Kürt Halkı üzerindeki ulusal baskıya son verilmesini içeren istemleri kapsamakta olan, çeşitli Avrupa ülkelerinden aralarında uluslararası üne sahip olanların da bulunduğu 127.000'i aşkın kişinin imzalarını taşıyan belgeleri Konsey Başkanlığı'na sundu.

Yapılan bu çalışmalar birçok Konsey üyesi üzerinde etkili oldu. Bu çevrelere, Türkiye halklarının gerçek temsilcilerini, demokratik muhalefetini tanıma olanağını sağladı.

Delegasyonumuzun Konsey'in Türkiye ile ilgili kararları üstüne görüşleri şöyledir:

Avrupa Konseyi Parlamenterler Asamble'sinin 36. Dönem ilk oturumunda Türkiye ile ilgili olarak çelişkili kararlar alındı.

İngiliz Frederick Bennett ve İtalyan Cavaliere gibi bir avuç açıktan Cunta destekçisi dışında kalan büyük çoğunluk, Türkiye'de demokrasinin bulunmadığını, 6 Kasım seçimleri ile oluşan meclisin ve onun hükümetinin Türkiye Halklarını temsil etmediğini, insan haklarının açıkça çiğnenmesinin devam ettiğini, düşünce ve örgütlenme özgürlüğünün büyük ölçüde kısıtlandığını, ceza evlerinde onbinlerce tutuklu ve hükümlünün bulunduğunu, işkencenin, yığınsal davaların sürdüğünü bir kez daha kabul etti, bunları Türkiye üstüne alınan karara yansıttı.

Bununla birlikte, Cuntanın atmış olduğu kimi göstermelik adımların etkisinde kalan bir çoğunluk, bu günkü rejime normalleşme yolunda adımlar attırılabilceği gibi bizce son derece yanlış ve tehlikeli bir görüşten hareketle Türk delegasyonunun yetki belgelerinin onaylanması yönünde oy kullandı.

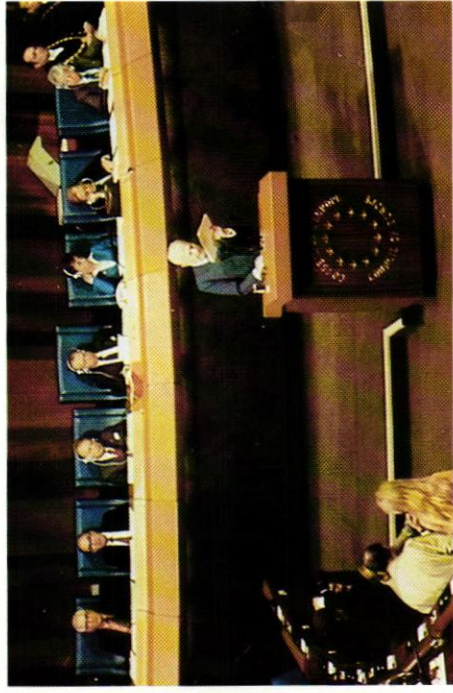
Türkiye delegasyonu ile ilgili karar, kuşkusuz, Konsey'in kuruluş ilkeleri ve daha önce almış olduğu kararlarla açık çelişki içindedir. Bu karar, ona oy veren pek çok üyenin düşünce ve beklentilerinin tersine, Türkiye'de demokrasinin oluşmasına yarar getirmeyecektir.

Sözkonusu çelişkili karara karşı tutum alan Konsey üyeleri Cuntanın ve onun sivil uzantısının uluslararası alanda prestij kazanma çabalarında bu kararı araç olarak kullanmalarını geniş ölçüde engellediler.

Ülkemizde faşist rejimi çökerterek gerçek bir demokrasinin kurulması için yürüttükleri mücadeleyi sürdürmede kararlı olan demokrasi güçlerimiz, Konsey'in insan hak ve özgürlüklerine ilişkin tutumunun da izleyicisi olacaktır.

COUNCIL OF EUROPE

THE PARLIAMENTARY ASSEMBLY



Italian President Sandro Pertini addresses the Assembly

Achievements

The Parliamentary Assembly discusses many of the problems that European society faces or will come up against in the coming years.

Its major **political debates** (on the Middle East, the North-South dialogue, East-West relations, human rights in the world, the defence of democratic institutions, etc.) keep the member governments in touch with the concerns of European public opinion.

The Parliamentary Assembly's proposals have resulted in many **conventions** (international treaties) which form the basis of a truly European system of legislation and take the place of a vast number of bilateral agreements. The Assembly played an important part in the drafting of the European Convention on Human Rights, which not only lists these rights but protects them by means of a unique and effective system of control. The Assembly's campaign for the abolition of the death penalty led to an additional protocol to the Convention banning the death penalty in peace time. Other examples include the European Cultural Convention and conventions on the conservation of wildlife and natural habitats, transfrontier co-operation, the suppression of terrorism and the legal status of migrant workers.

The Assembly regularly organises **conferences, symposia and public parliamentary hearings** on such controversial issues as violence, genetic engineering, vivisection, nuclear energy, etc. The hearings, which take the form of a dialogue between members of parliament and experts, are designed as an aid to decision-making and have produced significant changes in European attitudes and policies.

There have been several major symposia on Europe's relations with the rest of the world, eg with the United States and with Japan.

The "Strasbourg Conferences", where members of the Assembly are joined by parliamentarians from non-European countries with pluralist democratic systems, are a forum for discussion of the problems facing democracy world-wide.

The Assembly has tried to draw as many countries as possible into the Council of Europe. It **fostered democracy** in Spain and Portugal after long periods under dictatorship and welcomed them as members as soon as possible. Having expelled Greece under the Colonels, the Assembly helped to bring it quickly back into the fold once the dictatorial regime collapsed.

The Assembly allows a constant dialogue to be carried on between members and non-members of the European Communities. It is also a **discussion forum** for other international organisations with no parliamentary organ of their own, for example the Organisation for Economic Cooperation and Development, the European Space Agency and several specialised agencies of the United Nations.

The Assembly has been addressed not only by major European figures such as Winston Churchill, Robert Schuman, Konrad Adenauer, Alcide de Gasperi, Helmut Schmidt, King Juan Carlos, François Mitterrand, Karl Carstens and Sandro Pertini, but also by political leaders from the Middle East, Latin America, the United States, China, Japan and the Commonwealth.



The visitors' gallery: 100,000 people visit the Council of Europe every year

Finally, the Assembly's **debates, reports and studies** have affected legislation in national parliaments: for example, its work on conscientious objection, police ethics, the rights of the sick and dying, consumer protection, conservation of the architectural heritage, public lending right, metal detectors, the use of animals for experiments, the lowering of the age of majority, the situation of homosexuals, minority rights, etc.

Conclusion

The Assembly makes it possible for parliamentarians from the 21 Council of Europe member countries to take up from a European angle issues of concern to public opinion, thus moulding national interests to the needs of a wider community.

Its debates and recommendations often lead to the conclusion of practical agreements and the harmonisation of policies. They also mirror the conscience of democratic Europe.

Directorate of Press and Information
Council of Europe—B.P. 431 R6—F 67006 Strasbourg Cedex
Tel. (88) 61.49.61—Telex Strasbourg 870 943



Flags of 21 nations: the Palais de l'Europe in Strasbourg, headquarters of the Council of Europe

The Council of Europe

Founded on 5 May 1949 to achieve greater unity between the European parliamentary democracies, the Council of Europe is the oldest of the European political institutions. Its headquarters is the Palais de l'Europe in Strasbourg, France.

The Council of Europe's two organs are the Committee of Ministers and the Parliamentary Assembly, assisted by an international secretariat of 860 officials. Through a flexible system of co-operation between governments, members of parliament and experts, the Council of Europe seeks to protect and develop human rights and democracy and to harmonise the policies of its 21 member states in a wide variety of fields including health, social welfare, education, culture, the environment, local government and justice but excluding defence.

The Parliamentary Assembly

Although the Council of Europe was designed mainly to promote co-operation between governments, the setting up of a Parliamentary Assembly bringing together members of the national parliaments added a new dimension to international relations.

The Parliamentary Assembly of the Council of Europe is a driving force in the organisation, influencing its intergovernmental activities in many ways.

Because the Assembly is essentially a consultative body it can be bold and original in its ideas. Being free to choose what subjects it will discuss, it can direct its attention towards longer-term issues —while not neglecting topical matters.

Through the national parliaments, where Assembly members can encourage action to follow up its work, the Assembly has a real influence on the member governments.

The Assembly is a genuine forum for democratic western Europe, keeping governments in constant touch with European public and parliamentary opinion.

Membership

The Council of Europe Assembly has 170 members known as representatives, and an equal number of substitutes, elected or appointed by national parliaments from among their own members. Since the organisation was set up, nearly 2,500 members of parliament have been able to gain experience of European politics in the Assembly.

The number of seats assigned to each country varies with its population and enables all the main national political parties to be represented proportionately. The seats are currently distributed as follows:

AUSTRIA	10
BELGIUM	10
CYPRUS	6
DENMARK	6
FRANCE	10
GERMANY (F. R.)	10
GREECE	6
ICELAND	6
IRELAND	6
ITALY	10
LIECHTENSTEIN	6
LUXEMBOURG	6
MALTA	6
NETHERLANDS	10
NORWAY	6
PORTUGAL	6
SPAIN	10
SWEDEN	6
SWITZERLAND	6
TURKEY	6
UNITED KINGDOM	10

Israel and the Republic of San Marino send observers.

From time to time it can happen that a country's domestic situation does not enable it to send representatives to the Assembly.

In the Assembly Chamber, representatives sit in alphabetical order, regardless of party or nationality. They express their own personal opinions and not those of their governments. As a rule, though, they vote as decided in the six **political groups** which have been formed: Socialist, Christian Democrat, European Democratic Group (Conservatives), Liberal, Joint Group of Democrats and the Communist Group. A few members of the Assembly do not belong to any political group.

Don't confuse the Parliamentary Assembly of the Council of Europe with the European Parliament!

The **Parliamentary Assembly of the Council of Europe** comprises representatives of the 21 Council of Europe member states, elected or designated by national parliaments.

The **European Parliament** comprises the directly elected representatives of the ten member countries of the European Communities. It also meets at the Palais de l'Europe in Strasbourg.

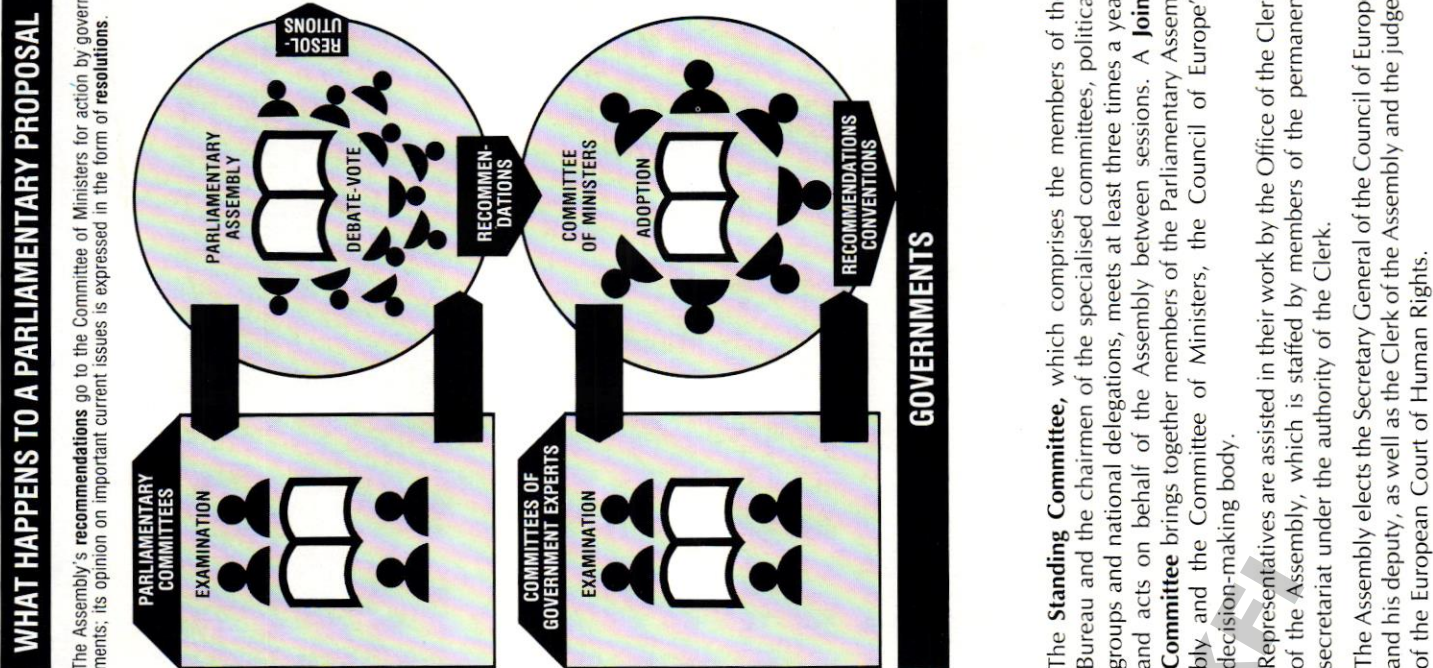
Organisation

Every year the Assembly holds a session in three parts (spring, autumn and winter), each lasting about a week. Plenary sittings are held in the Assembly Chamber of the Palais de l'Europe in Strasbourg and are open to the public. To make itself better known in the member states, the Assembly holds a "mini-session" in a different European city each year.

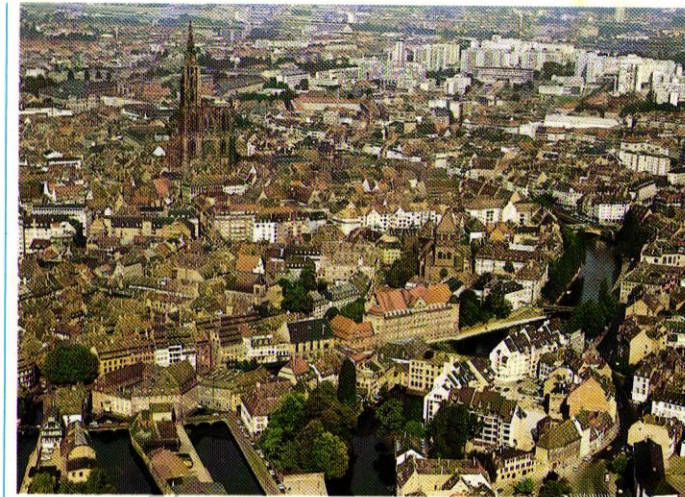
Speeches are normally made in one of the Assembly's five working languages—English, French, German, Italian, and Spanish—with simultaneous interpretation provided. Assembly documents are produced in the Council's two official languages, English and French.

From among its own members the Assembly elects its **President**, who traditionally stays in office for three years, and 13 **Vice-Presidents** of different nationalities elected for one year. Together they make up the **Bureau** of the Assembly whose job it is to draw up the agenda and the timetable of debates.

The Assembly's work is prepared by 13 **specialised committees** dealing with political, economic, social, cultural, legal affairs and so on.



COUNCIL OF EUROPE



Strasbourg: at the crossroads of Europe

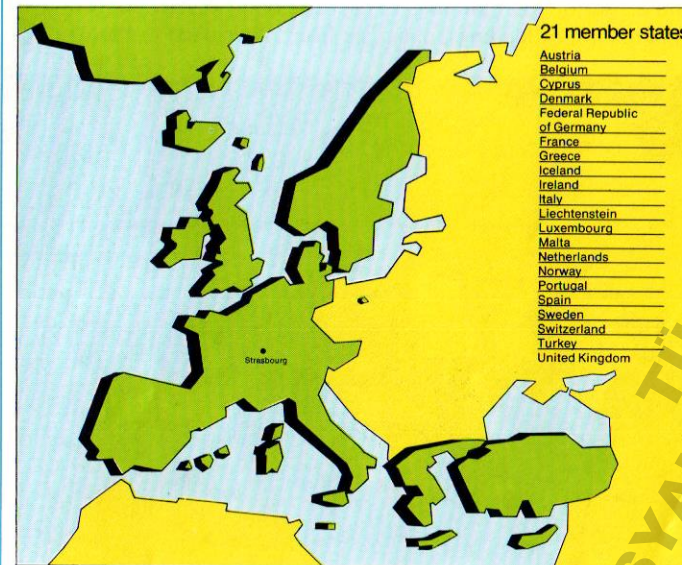
Photo: Norestair

Education, culture, youth and sport

Education not only prepares people for work and life in society but also helps them to fulfil themselves as individuals.

Through a programme of comparative research and experimental projects, the Council of Europe is trying to bring education into line with current needs and to ensure greater equality of opportunity for all.

Through its work on the equivalence of qualifications, on language-teaching and on the revision of history textbooks, the Council is helping to make it easier for people to move from one European country to another as well as to understand one another.



In the field of **culture**, the Council aims to protect and promote the European cultural heritage and to help the general public to appreciate it better, especially through active participation. Current projects include the organisation of European art exhibitions, the drafting of a Declaration on Europe's cultural objectives, research on the role of the culture industries and a comparative study of cultural policy in towns.

The European Youth Centre and Foundation in Strasbourg provide young people with training and opportunities for working out their own solutions to the problems of European society. Steps are taken at both European and national level to encourage "sport for all". Recommendations have been made to governments on specific aspects of sport such as doping, violence and the provision of low-cost facilities.

Public health and social progress

The Council is leading the fight in Europe against drug traffickers and drug taking. Its extensive public health programme aims at the improvement and pooling of medical facilities and products. Work in the social security field has resulted in better coverage and the transfer of benefits from one country to another. Through a special fund, it has provided job opportunities and low-cost housing in poorer areas.

Conclusion

The Council's basic aim is to achieve greater unity among its member countries by improving co-operation and by pooling their experience. Its work affects most aspects of everyday life in Europe. But unity does not mean uniformity: indeed Europe's rich diversity of languages, traditions and cultures is one of its greatest assets. So the Council seeks only to change those rules and practices which present an obstacle to exchanges and understanding between people and states.

The Council also proposes solutions to the new problems affecting European society as a whole, which would be well-nigh impossible for individual countries to tackle alone.

That is why they work together in the Council of Europe.

Further information is obtainable from:
Council of Europe, Directorate of Press and Information, BP 431/R6
67006 Strasbourg Cedex, France, Telephone (88) 61 49 61

referred to the European Court of Human Rights or to the Committee of Ministers, whose decisions have to be obeyed.

Among the rights and freedoms protected by the convention are the right to life, the right to education, freedom of opinion, freedom of expression and freedom of association. The convention also prohibits torture and forced labour.

Although we may think that these rights can be taken for granted, they are sometimes violated even in the most democratic countries.

The European Social Charter—the counterpart to the Convention on Human Rights—ensures respect for basic social rights, such as the right to fair working conditions, the right to equal pay for equal work, the right to vocational training, the right to strike and the right to form and join a trade union.

Democracy today is threatened by the rise of terrorism and intolerance. The Council of Europe is helping to defend democracy in various ways, for example by co-ordinating anti-terrorist measures. It also organises mutual assistance between judicial authorities to help them in the fight against crime in all its forms.

Improvement of living conditions

Environment protection

To halt the widespread deterioration of the environment, the Council of Europe is trying to:

- make towns better places to live in;
- protect nature and wildlife;
- safeguard the architectural heritage;
- ensure balanced regional planning.

The Council runs information campaigns to make Europeans aware of what they themselves can do to improve the environment.

Towards a better quality of life

The Council of Europe

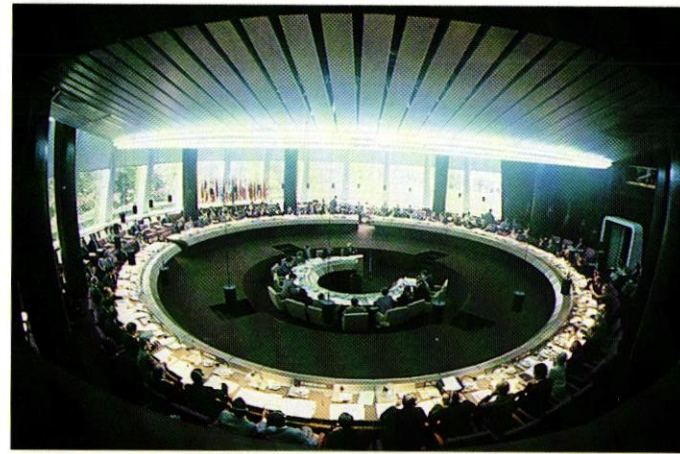
The Council of Europe is an international organisation bringing together 21 democratic countries of Western Europe, including the 10 Common Market countries. Its headquarters are in Strasbourg, France.

The Council was founded in 1949:

- to work for closer European unity;
- to protect democracy and human rights;
- to improve living conditions.

The Council of Europe is trying to shape a European society on a human scale in which technological progress does not interfere with individual values and freedoms.

To do this, it organises co-operation between European governments and parliamentarians in a wide variety of fields. Only the purely military aspects of defence are excluded.



The meeting room of the Committee of Ministers

How the Council of Europe Works

The Council of Europe works through a **Committee of Ministers**, representing the governments, and a **Parliamentary Assembly**, representing national parliaments.

These are assisted by an international secretariat of 850 officials, headed by a Secretary General who is elected for a 5-year term. The Council's budget is provided by member governments. The annual cost of running the Council (about £25 million in 1983) amounts to the price of a local telephone call for each European. The Council's official languages are English and French.

Committee of Ministers

The Committee of Ministers is the Council of Europe's decision-making body. It consists of the 21 member states' Foreign Ministers, who hold the chairmanship in turn. They meet in Strasbourg twice a year while their Deputies (Permanent Representatives) meet for about a week each month.

The Committee of Ministers decides on the Council's policy, adopts the intergovernmental work programme and approves the organisation's budget.

It also determines what action should be taken on proposals it receives from the Parliamentary Assembly or from its own committees of experts.

Its main decisions take the form either of recommendations to governments to follow common courses of action or of European conventions and agreements which are binding on the states that ratify them.

Parliamentary Assembly

The Parliamentary Assembly's 170 representatives, appointed by the national parliaments from among their own members, meet in Strasbourg three times a year. The President of the Assembly is elected for a one-year, renewable term.

The Parliamentary Assembly makes proposals to the Committee of Ministers, debates general policy and acts as the "conscience of Europe".

The Assembly's proposals to the Committee of Ministers are finalised at its public plenary sessions after preparatory work by its committees.

Its debates cover general policy matters and European affairs as a whole. Major international issues are often discussed with the participation of leading politicians from other parts of the world.



The "Palais de l'Europe" in Strasbourg

The Assembly regularly holds public hearings on important topical issues such as violence in the media, genetic engineering or vivisection.

All the main political movements are represented in the Assembly, which is thus a fair cross-section of European public opinion.

The Council of Europe regularly convenes:

— **conferences of specialised ministers** (Justice, Education, Environment, Social Affairs etc);

— **the Conference of Local and Regional Authorities of Europe**, where Europe's mayors and local government representatives can discuss their problems at international level and concert plans for co-operation across national borders.

Numerous private organisations (professional associations, trade union federations etc) are consulted by the Council and are thus given an opportunity to take part in and influence its work.

Activities and Achievements

385 million Europeans benefit from the work of the Council of Europe. The Council seeks to harmonise its member states' laws through a series of conventions and agreements. More than 100 of these have been concluded so far, and together they form a truly European framework of law.

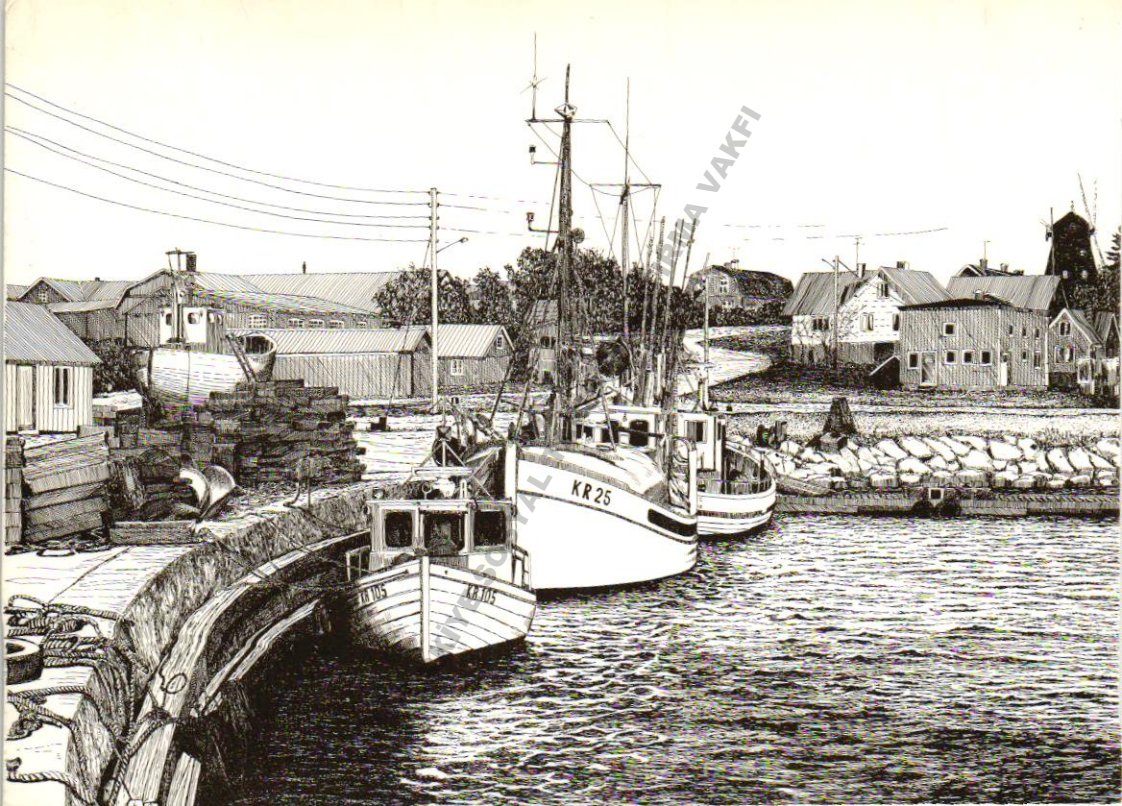
Protection of democracy and human dignity

Some two-thirds of the world's democratic countries are members of the Council of Europe, which sees to it that each member state respects the principles of democracy.

The European Convention on Human Rights and Fundamental Freedoms has established an international system for safeguarding civil and political rights. There is no comparable system of guarantee anywhere else in the world.

Complaints about alleged violations of the convention by a member state may be made to the European Commission of Human Rights either by another member state or, in the case of most countries, by an individual living in the country concerned. If the complaint is considered admissible, the Commission tries to arrange a friendly settlement. Failing such a settlement, the case is

The Parliamentary Assembly Chamber



Sandviks hamn

Efter förminskning av originalitografi av Hans Andersson

Dost,

Yeni materyal geldi.
Aynca hazırladığım iki
komisyonu da gönderiyorum

Sevgiler

Reşit Ferit

TÜRKİYE SOSYAL TARİH ARAŞTIRMA VAKFI

COUNCIL OF EUROPE COMMITTEE OF MINISTERS

RECOMMENDATION No. R (84) 7

Of the committee of ministers to member states on the maintenance of migrants' cultural links with their countries of origin and leisure facilities¹

*(Adopted by the Committee of Ministers on 28 February 1984
at the 367th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

1. Aware that the cultures of countries of origin and receiving countries are a source of mutual enrichment to the extent that they contribute to the growth of interculturalism in society;
2. Emphasising the importance of maintaining cultural links with the countries of origin for the integration of migrants in receiving countries;
3. Convinced that the environment contributes to everyone's education and that the presence of migrants' culture in the various fields of social life (leisure, the media, community life, school, sport, religion) can be conducive to intercultural education;
4. Convinced that migrants will settle more easily in receiving countries if their own cultural values are appreciated by the local population;
5. Being of the opinion that migrants should be made conscious of the importance of learning the language of the receiving country and becoming familiar with its culture;
6. Convinced that it is mainly by improving migrants' economic and social status that it is possible to enhance the image of the cultures of their countries of origin and ensure that they are recognised by society;
7. Stressing the importance of maintaining migrants' links with the culture of their country of origin, not only to facilitate their resettlement in the event of their voluntary return, but above all to ensure the full development of their personalities;
8. Emphasising that close co-operation between receiving countries and countries of origin constitutes the most favourable basis for implementing the measures advocated in this recommendation in the framework amongst other things, of bilateral agreements.

¹ When this recommendation was adopted, the Representative of the Federal Republic of Germany, in application of Article 10.2 c of the Rules of Procedure for meetings of the Ministers' Deputies, reserved the right of his Government to comply or not with paragraph 5.2 of the recommendation.

9. Reaffirming the principles stated in its Resolution (70) 35 on the school education of migrant workers' children,

10. Recommends, as regards the matters referred to below, that the governments of member states, bearing in mind their respective resources and circumstances, both legislative and educational or socio-cultural:

1. EDUCATION

- 1.1. promote for migrant children the presence of the languages and cultures of their countries of origin from the beginning of their school education onwards, while furthering the integration of these children into the educational system and society of the receiving country, incorporating as far as possible the teaching of the languages and cultures of countries of origin in the regular school timetable and encouraging the co-ordination of such instruction with ordinary education;
- 1.2. to this end, encourage the appropriate authorities of receiving countries to provide premises for such instruction in similar material conditions as for compulsory instruction at the same level and encourage the authorities of countries of origin to provide the appropriate teaching materials, in close co-operation with the receiving countries;
- 1.3. having regard to national conditions, give the children of migrants the opportunity at secondary school level of choosing their mother tongue instead of a foreign language;
- 1.4. encourage school authorities and those responsible for education in receiving countries to incorporate in their curricula some information about the history, geography, economy, literature and arts of pupils' countries of origin and promote the multicultural dimension in their various activities;
- 1.5. encourage as far as possible school exchanges between receiving countries and countries of origin, either for pupils or for teachers;
- 1.6. encourage the publication of books on the cultures of countries of origin for school-age children, written in the languages of emigration countries or in those of receiving countries, and promote the production of educational material with a multicultural dimension;

1.7. prepare teachers during their training for educating migrants' children and make all educational personnel aware of the pluricultural dimension of contemporary societies and its educational consequences, as well as of the causes and effects of international migration;

1.8. encourage the authorities concerned, acting in co-operation with those of the country of origin, to call upon the following for the purposes of teaching the languages and cultures of countries of origin;

— teachers from the countries of origin possessing qualifications recognised as equivalent to those of teachers in receiving countries, or

— migrants already settled in receiving countries who have a level of training equivalent to that of other teachers in those countries and a good knowledge of the languages and cultures of countries of origin;

1.9. encourage links between families and schools and a general awareness within the education service of the multicultural nature of present-day society;

2. ADULT EDUCATION IN RECEIVING COUNTRIES

2.1. promote education for adult migrants, as far as possible, especially for women, so as to enable them to maintain their cultural links with their countries of origin; and to this purpose, organise suitable educational activities;

3. MIGRANTS' PARTICIPATION IN ASSOCIATIONS

3.1. acknowledge migrants' associations as equally concerned by cultural and educational matters and allow them to promote cultural, educational and social activities;

3.2. further the development of migrants' associations by eliminating obstacles to the creation of such associations;

3.3. encourage migrants' associations to co-operate with the host society in creating a better understanding of their culture among the population of the receiving country;

3.4. foster exchanges:

— between migrants' associations and associations in migrants' countries of origin,

— among migrants' associations (of the same or different nationalities);

4. RELIGION

4.1. help migrants to practice their religion in accordance with the requirements of freedom of conscience;

5. MEDIA AND INFORMATION

5.1. facilitate the launching and publication of migrants' newspapers and periodicals and encourage radio and TV organisations to provide regular and fuller coverage of news in receiving countries and countries of origin;

5.2. facilitate the reception by migrants as well as by nationals of the radio and TV programmes of countries of origin by means, for example, of the latest communication systems, and encourage the broadcasting of programmes for migrants by the radio and TV companies of receiving countries, paying particular attention to the production of multicultural programmes;

5.3. facilitate the distribution of newspapers and periodicals from countries of origin;

5.4. provide vehicles of practical information about existing socio-cultural, educational and sports facilities in receiving countries;

5.5. take the necessary steps to promote exchanges of information on the cultures of receiving and send countries between migrants and nationals;

6. CULTURAL AND LEISURE ACTIVITIES

6.1. promote the organisation in receiving countries of cultural events concerning countries of origin;

6.2. facilitate the distribution of books from countries of origin and promote the availability of material representative of the cultures of countries of origin in libraries and resource centres, including those in schools;

6.3. facilitate the creation of cultural centres promoted by the authorities of countries of origin in co-operation with the authorities of receiving countries, whose activities should be aimed not only at migrants but also at nationals, such centres being excellent places for the meeting of the various cultures;

6.4. encourage the participation of migrant children in leisure activities in their countries of origin;

6.5. encourage the practice of sport by migrants and draw the attention of education authorities and sports organisations to the need to treat the practice of sport as a potential source of mutual understanding;

7. IMPLEMENTATION OF THE RECOMMENDATION

7.1. develop co-operation and promote research between countries of origin and receiving countries in the fields covered by this recommendation. □

Strasbourg

1984-03-20

Council of Europe/ Confrontation "Aliens in Europe: a threat or an asset?"

Statement by Refik Sener, Immigrant Administration of Stockholm
Theme II: Hostility towards aliens: reasons and manifestations

Hostile attitudes and activities with racist tendencies against immigrants have become a common phenomenon in the immigrant countries of today, and unfortunately there are many of those who consider that the problem has to do with the immigrants only, not society itself.

This incorrect analysis puts a certain hindrance to broad social forces to seriously engage themselves in the problem. Xenophobia is and should be considered a problem of society. If it is allowed to develop further, its consequences will be disastrous for the whole society and not only for some immigrant groups. Therefore, it is of utmost importance for both the labour and the political movements together with immigrant organizations to engage themselves in the question on international, national and local level.

Xenophobic attitudes and activities partly grow from latent or open prejudice against immigrants and partly depend on the opinion of the nationals considering the existence of the immigrants in society as temporary.

The prejudice has its natural explanation in the lack of knowledge of and respect for the immigrant cultures. It is common that a person who has no experience or knowledge about immigrants, tends to generalize and takes a negative attitude towards immigrants.

In the Swedish circumstances the picture of an immigrant is often as follows: "blackheads, living on welfare, dealing with drugs and eating garlic, besides, att all meals". Also the way how the mass media describes immigrant events further builds up and strengthens this negative image.

To fight prejudice in a society that has gone through a structural change regarding the composition of the society, which will be constant in the future, makes it necessary to invest on education, for example. But still today there is a shortage, or no, relevant educational material in the most of the immigrant countries concerning immigration, immigrants and ethnical relations.

The immigrants came to the West European industrial countries in order to work hard, to save money for a home and a initial capital to be able to live a decent life when they eventually return home. They had in mind to stay in the foreign countries only for a short period of time. Also the people and the governments of the industrial countries shared this view of the immigrants existance as such.

Two decades have passed since the vast immigration to West Europe began. But the reasons behind the immigration still exist and the economic situation in the emigration countries has even become worse. The immigrants now begin to realize that "to return home for good" was just a dream. The second generation that is born and ^{growing} grew up in the immigrant countries, also refuse to move back "home?", and make it impossible for those that accually want to return.

We can now state that the immigration has reached a new phase. The immigrants no longer consider thier existence temporary but permanent. The peoples an the governments of the industrial countries as well

need to reevaluate thier view in this respect, that is, the immigrants should be regarded as minorities and as an unseparable part of society.

But the demand of labour in the indutrial countries has gone down drastically. From being an asset the immigrants now are regarded as a burden.

It is particularly during the times of economic crises, when prejudice and insecurity about the future is developing towards xenophobic attitudes and movements in various forms.

The immigrants have during the last twenty years created irriplaceable contributions for the economies of the indutrial countries. They have participated in the development of wellfare, for a cost of deep human tragedies. It is both irresponsible and in contrast with the democratic view of human rights, that during times of economic crises and unemployment, to point out the immigrants as unwanted. It is undoubtedly the responsibility of the political parties, labour organizations and mass media to clarify the real situation and both fight and condemn the immigrant policy, which involves buing out the immigrants and exporting an problem of society. This immigrant policy in reality intensifies and legalizes the hostility towards the immigrants.

Strasbourg
1984-03-21

Council of Europe/ Confrontation "Aliens in Europe: a threat or an asset?"

Statement by Refik Sener, Immigrant Administration of Stockholm

Theme III: Integration

The solution of the problem is intimately engaged with the integration of ethnical and cultural minorities in society, which should take place on mutual basis, and is a process that requires time and resources.

The integration, on one hand, involves that the immigrants language and cultural rights are recognized and that it will be possible to maintain and develop these, while the minority population actively takes part in all sectors of the social process, and on the other hand, an increased respect of and knowledge about minority cultures within majority population.

The mother tongue and the culture, which are of utmost importance for the identity development of the minority children, do not - as well known- grow in tress like pears and apples, but require serious institutions in order to bloom. An active participation in all sectors of the social process for its part requires a thorough knowledge of the society ^{where one lives} -both present time and history - and abilities in the language of the country. These two cornerstones in the integration process do not exclude each other, but rather need and enrich each other.

The intergation of ethnical and cultural minorities in society is basicly a political question. Sweden serves as a good example in this respect. As early as in 1975 the unanimous Parliament

ratified a law about a new immigrant policy and defiened the goals the goals of the immigrant policy as equality, free choice and cooperation. Thus, the goal was aimed at integration while assimilation was rejected. The immigrants also receive the right to vote in the communal elections, which strengthens the sense of unity in society.

Initiatives of this kind are necessary if the integration process will succed and the minorities themselves can feel and be considered equal.

I used to work with pre-school children before, to be exact with turkish pre-school children. One day we visited the Natural History Museum in Stockholm. The children were very happy as they saw that the building was full of all possible kinds of stuffed animals. There were also an exhibitions of pictures explaining the origi of man. In a row of enlarged pictures, put next to one another, they showed how the ape gradually was changed into a human being. Before the amazed children I told them about the evolution of the mankind from apes to human beings. After a few minutes the most of the children ran away to look at more interesting exhibition objects, like lions and other exotic animals. But one of them that I used to call for the philosopher, stayed at the picture exhibition for a long time and studied how the ape became a human being covered with black hair all over the body. At last he turned to me and asked: Refik, he said, the Swedes; do they descend from apes as well?

It is my sincere wish that we need not go back to the ape stadium in order to achieve equality between immigrants and the national inhabitants.

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

THIRTY-SECOND ORDINARY SESSION

RESOLUTION 743 (1980)¹
*on the need to combat resurgent fascist
propaganda and its racist aspects*

The Assembly,

1. Reaffirming its devotion to the principles of democracy and respect of human rights, on which the Council of Europe is founded ;
2. Deeply concerned at the emergence in several member states of vicious propaganda attempting to rehabilitate fascist theories and their racist aspects ;
3. Recalling its Recommendation 453 (1966), which gave rise to Resolution (68) 30 of the Committee of Ministers, on measures to be taken against incitement to racial, national and religious hatred,
4. Condemns the latest attacks, which are all the more repugnant in that they have been perpetrated against innocent crowds, Jewish children, immigrant workers and refugees ;
5. Condemns with the utmost vigour such propaganda which, stridently exploited by extremist groups, finds, in a climate of economic and social uncertainty, an audience among certain sectors of the population, and is even seeking, more subtly, to find a place in the ideologies of certain widely supported political parties ;
6. Recalling its request to the Committee of Ministers in Recommendation 453 (1966) "to invite member governments to initiate effective

1. *Assembly debate* on 1 October 1980 (18th Sitting) (see Doc. 4590, report of the Political Affairs Committee).

Text adopted by the Assembly on 1 October 1980 (18th Sitting).

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

TRENTE-DEUXIÈME SESSION ORDINAIRE

RÉSOLUTION 743 (1980)¹
*relative à la nécessité de combattre
la réapparition de la propagande fasciste
et de ses aspects racistes*

L'Assemblée,

1. Réaffirmant son attachement aux principes de la démocratie et du respect des droits de l'homme, fondements mêmes du Conseil de l'Europe ;
2. Vivement préoccupée par l'apparition dans plusieurs Etats membres d'une propagande virulente visant à réhabiliter des théories fascistes et leurs aspects racistes ;
3. Rappelant sa Recommandation 453 (1966), qui a donné lieu à la Résolution (68) 30 du Comité des Ministres, relative aux mesures à prendre contre l'incitation à la haine raciale, nationale et religieuse,
4. Condamne les récents attentats, d'autant plus révoltants qu'ils ont été perpétrés contre des foules innocentes, des enfants juifs, des ouvriers immigrés et des réfugiés ;
5. Condamne, avec la plus grande vigueur, cette propagande qui, utilisée avec grand tapage par des groupes extrémistes, trouve dans un climat d'inquiétude économique et sociale une audience dans certains secteurs de la population, et cherche même plus subtilement à prendre pied dans l'idéologie de certains partis politiques de grande obédience ;
6. Rappelant la demande qu'elle a adressée au Comité des Ministres dans sa Recommandation 453 (1966) « d'inviter les gouvernements membres à

1. *Discussion par l'Assemblée* le 1^{er} octobre 1980 (18^e séance) (voir Doc. 4590, rapport de la commission des questions politiques).

Texte adopté par l'Assemblée le 1^{er} octobre 1980 (18^e séance).

legislation against incitement to racial, national and religious hatred and violence and, in member states where such legislation already exists, to invite member governments to review the scope and effectiveness of such legislation in the light of present-day circumstances, and further, to request member governments to take all steps in their power to ensure that such legislation as exists at present is rigorously enforced",

7. Draws the attention of journalists and those responsible for the mass media to their responsibilities in connection with the public propagation of information likely to encourage the development of reactions of a racist and elitist nature ;

8. Welcomes :

a. the initiative taken by the Council of Europe's European Youth Centre in organising a Conference on Intolerance in Europe, in Strasbourg from 9 to 11 December 1980 ;

b. the importance accorded by the Council for Cultural Co-operation to the preparation of school children for life in a democratic society by the project on secondary education entitled "Preparation for life" ;

9. Urges the governments and parliaments of member states :

a. to take appropriate action to attack the root causes of the ills from which such propaganda springs by ensuring access for all to justice, to the right to work, and to culture and education, which should in particular include adequate teaching of modern history, so that young people will be better prepared to promote democracy ;

b. to adopt, where it does not already exist, legislation directed against actions inspired by racism and xenophobia, in accordance with Article 2, paragraph 1.d, of the United Nations Convention on the Elimination of all Forms of Racial Discrimination, which entered into force on 4 January 1969, and with Committee of Ministers Resolution (68) 30 of 31 October 1968 on the prohibition of racial, national and religious discrimination ;

10. Calls on the Committee of Ministers to approach the member governments with a view to their taking more positive and appropriate action against subversive fascist and Nazi groups and safeguarding free and democratic institutions

instaurer une législation efficace contre l'incitation à la haine raciale, nationale et religieuse et à la violence ou, si une telle législation existe déjà, à en réviser le champ d'application et l'efficacité à la lumière des circonstances actuelles et à prendre en outre toutes les mesures en leur pouvoir pour que cette législation soit rigoureusement appliquée »,

7. Attire l'attention des journalistes et des responsables des *mass media* sur leur responsabilité à l'égard de la propagation dans l'opinion publique d'informations de nature à favoriser le développement de réactions à caractère raciste et élitiste ;

8. Se félicite :

a. de l'initiative du Centre européen de la jeunesse du Conseil de l'Europe d'organiser à Strasbourg, du 9 au 11 décembre 1980, une Conférence sur l'intolérance en Europe ;

b. de l'importance accordée par le Conseil de la coopération culturelle à la préparation des élèves à la vie en société démocratique dans le projet consacré à l'enseignement secondaire « Préparation à la vie » ;

9. Demande instamment aux gouvernements et aux parlements des Etats membres :

a. de prendre les mesures appropriées pour s'attaquer aux racines du mal qui sont à l'origine de cette propagande, en assurant à tous l'accès à la justice, au droit au travail, à la culture et à l'éducation qui devrait notamment réserver une place convenable à l'enseignement de l'histoire moderne, de façon à mieux préparer les jeunes à la promotion de la démocratie ;

b. d'adopter, si elle n'existe déjà, une législation visant à réprimer les actes inspirés par le racisme et la xénophobie, conformément à l'article 2, paragraphe 1.d, de la Convention des Nations Unies sur l'élimination de toutes les formes de discrimination raciale, entrée en vigueur le 4 janvier 1969, et à la Résolution (68) 30 du Comité des Ministres, du 31 octobre 1968, relative à l'interdiction de la discrimination raciale nationale ou religieuse ;

10. Fait appel au Comité des Ministres pour qu'il intervienne auprès des gouvernements des Etats membres afin que soient prises des mesures plus incisives et adéquates pour frapper les centres de subversion fascistes et nazis, et pour protéger les

against acts of violence which have now assumed the proportions of frequently recurring massacres,

11. Calls on the Committee of Ministers to take action on Assembly Recommendation 855 of 2 February 1979 by approaching the member governments with a view to their signing and ratifying the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes of 1974 (paragraph 10.i of the recommendation), to taking whatever steps may be necessary to ensure that crimes do not escape punishment (paragraph 10.ii), and to improving their co-operation for the purpose of prosecuting the perpetrators of these serious crimes (paragraph 10.iii).

institutions libres et démocratiques contre les actes de violence qui ont atteint un niveau de massacres qui se répètent ;

11. Fait appel au Comité des Ministres pour qu'il donne suite à la Recommandation 855 de l'Assemblée, du 2 février 1979, et en conséquence intervienne auprès des gouvernements des Etats membres afin que ceux-ci signent et ratifient la Convention européenne de 1974 sur l'imprescriptibilité des crimes contre l'humanité et des crimes de guerre (paragraphe 10.i de la recommandation), prennent toutes les mesures pour que les crimes ne soient pas impunis (paragraphe 10.ii), et améliorent leur coopération pour poursuivre les auteurs de ces graves crimes (paragraphe 10.iii).

PARLIAMENTARY ASSEMBLY
OF THE
COUNCIL OF EUROPE

15 September 1980

Doc. 4590

REPORT

on the need to combat
resurgent fascist propaganda
and its racist aspects¹

(Rapporteur: Mr KRIEPS)

I. Draft Resolution

presented by the Political Affairs Committee²

The Assembly,

1. Reaffirming its devotion to the principles of democracy and respect of human rights, on which the Council of Europe is founded;
2. Deeply concerned at the emergence in several member states of vicious propaganda attempting to rehabilitate fascist theories and their racist aspects,
3. Condemns with the utmost vigour such propaganda which, stridently exploited by extremist groups, finds, in a climate of economic and social uncertainty, an audience among certain sectors of the population, and is even seeking, more subtly, to find a place in the ideologies of certain widely-supported political parties;
4. Draws the attention of journalists and those responsible for the mass media to their responsibilities in connection with the public

1. See Doc. 4060 and Reference No. 1180 of 13 December 1977; and Recommendation 852 (1979).

2. a. Adopted by the committee on 9 September 1980 by 31 votes to 0 and 1 abstention.

Members of the committee: MM. Urwin (Chairman); Mende, Leonard (Vice-Chairmen); Mrs Aasen, MM. Akçali, Alegre, Amadei, de Azevedo, Batliner, Baumel, Sir Frederic Bennett, MM. van den Bergh, Bournias (Alternate: Mrs Tsimokou), Budtz, Calamandrei (Alternate: Romano), Dejardin, De Poi (Alternate: Mondino), Lady Fleming, MM. Gessner (Alternate: Scheffler), Grima (Alternate: Tabone), Günes, Hesele (Alternate: Reinhart), Kershaw, Krieps, Kristjánsson, Lidbom, Lopez Henares, Molin (Alternate: Björck), R. Müller, Péronnet, Reddemann, Schleiter, Scholten (Alternate: Mommersteeg), Steiner (Alternate: Mrs Hubinek), van Waterschoot, Wilhelm, Yañez-Barnuevo.

N.B. The names of those who took part in the vote are printed in italics.

b. See 18th Sitting, 1 October 1980 (adoption of the draft resolution as amended), and Resolution 743.

ASSEMBLÉE PARLEMENTAIRE
DU
CONSEIL DE L'EUROPE

15 septembre 1980

Doc. 4590

RAPPORT

sur la nécessité de combattre
la réapparition de la propagande fasciste
et de ses aspects racistes¹

(Rapporteur: M. KRIEPS)

I. Projet de résolution

présenté par la commission des questions politiques²

L'Assemblée,

1. Réaffirmant son attachement aux principes de la démocratie et du respect des droits de l'homme, fondements mêmes du Conseil de l'Europe;
2. Vivement préoccupée par l'apparition dans plusieurs Etats membres d'une propagande virulente visant à réhabiliter des théories fascistes et leurs aspects racistes,
3. Condamne, avec la plus grande vigueur, cette propagande qui, utilisée avec grand tapage par des groupes extrémistes, dans un climat d'inquiétude économique et sociale, trouve une audience dans certains secteurs de la population, et cherche même, plus subtilement, à prendre pied dans l'idéologie de certains partis politiques de grande obédience;
4. Attire l'attention des journalistes et des responsables des *mass media* sur leur responsabilité à l'égard de la propagation dans l'opinion

1. Voir Doc. 4060 et Renvoi n° 1180 du 13 décembre 1977; et Recommandation 852 (1979).

2. a. Adopté par la commission le 9 septembre 1980 par 31 voix contre 0 et 1 abstention.

Membres de la commission: MM. Urwin (Président); Mende, Leonard (Vice-Présidents); M^{me} Aasen, MM. Akçali, Alegre, Amadei, de Azevedo, Batliner, Baumel, Sir Frederic Bennett, MM. van den Bergh, Bournias (Remplaçant: M^{me} Tsimokou), Budtz, Calamandrei (Remplaçant: Romano), Dejardin, De Poi (Remplaçant: Mondino), Lady Fleming, MM. Gessner (Remplaçant: Scheffler), Grima (Remplaçant: Tabone), Günes, Hesele (Remplaçant: Reinhart), Kershaw, Krieps, Kristjánsson, Lidbom, Lopez Henares, Molin (Remplaçant: Björck), R. Müller, Péronnet, Reddemann, Schleiter, Scholten (Remplaçant: Mommersteeg), Steiner (Remplaçant: M^{me} Hubinek), van Waterschoot, Wilhelm, Yañez-Barnuevo.

N.B. Les noms des membres qui ont pris part au vote sont indiqués en italique.

b. Voir 18^e séance, 1^{er} octobre 1980 (adoption du projet de résolution amendé), et Résolution 743.

propagation of information likely to encourage the development of reactions of a racist and elitist nature;

5. Welcomes the initiative taken by the Council of Europe's European Youth Centre in organising a conference on intolerance in Europe, in Strasbourg from 9 to 11 December 1980;

6. Urges the governments and parliaments of member states:

a. to take appropriate action to attack the root causes of the ills from which such propaganda springs, by ensuring access for all to justice, to the right to work, and to culture and education, which should in particular include adequate teaching of modern history, so that young people will be better prepared to promote democracy;

b. to adopt, where it does not already exist, legislation directed against actions inspired by racism and xenophobia, in accordance with Article 2, paragraph 1.d, of the United Nations Convention on the Elimination of all Forms of Racial Discrimination, which entered into force on 4 January 1969.

II. Explanatory Memorandum

by Mr KRIEPS

General considerations

1. Discussions in committee have shown a strong interest on the part of politicians in the questions relating to fascism and racism, an interest fortunately shared by the general public. Still, many people find it difficult to discuss the subject dispassionately and to focus on the one point where everybody luckily seems to agree, namely on the need to wage a constant struggle against fascism and racism. The recent attacks in Marseilles, Hamburg and Bologna have brutally underlined both the topicality and the gravity of the subject. They justify fears of a radicalisation of extremist groups at European level.

It is not possible in the explanatory memorandum to assemble and evaluate all existing opinions on the origin of fascism, its remnants in certain countries, and the risks of any future resurgence. Nor can the report assess all the recent events relevant in this regard.

2. Your Rapporteur would like to state, however, that the subject is so important to him that he has tried to avoid any convictions or opinions that may appear too controversial or personal. He hopes in this way to be able to reply to the points of view of the large majority of political and national tendencies among his fellow parliamentarians.

publique d'informations de nature à favoriser le développement de réactions à caractère raciste et élitiste;

5. Se félicite de l'initiative du Centre européen de la jeunesse du Conseil de l'Europe d'organiser à Strasbourg, du 9 au 11 décembre 1980, une conférence sur l'intolérance en Europe;

6. Demande instamment aux gouvernements et aux parlements des Etats membres:

a. de prendre les mesures appropriées pour s'attaquer aux racines du mal qui sont à l'origine de cette propagande, en assurant à tous l'accès à la justice, au droit au travail, à la culture et à l'éducation qui devrait notamment réserver une place convenable à l'enseignement de l'histoire moderne, de façon à mieux préparer les jeunes à la promotion de la démocratie;

b. d'adopter, si elle n'existe déjà, une législation visant à réprimer les actes inspirés par le racisme et la xénophobie, conformément à l'article 2, paragraphe 1.d, de la Convention des Nations Unies sur l'élimination de toutes les formes de discrimination raciale, entrée en vigueur le 4 janvier 1969.

II. Exposé des motifs

par M. KRIEPS

Observations générales

1. La discussion en commission a montré, s'il en était besoin, l'intérêt très vif que suscite dans le milieu politique la question du fascisme et du racisme. Heureusement cet intérêt correspond à celui qu'entretient le public à ce sujet. Il n'est égalé que par les difficultés qu'éprouvent les uns et les autres à en discuter sans passion et à exprimer le point sur lequel ils sont heureusement tous d'accord: la nécessité d'une lutte constante contre le fascisme et le racisme. Les récents attentats de Marseille, de Hambourg et de Bologne ont brusquement souligné et l'actualité et la gravité du sujet. Ils font craindre une radicalisation des groupuscules sur le plan européen.

Le présent exposé des motifs n'a pas, et ne peut avoir, la prétention d'exprimer une appréciation ralliant toutes les opinions sur les origines du fascisme et sur l'importance de ses vestiges dans certains Etats et de sa recrudescence, ni sur l'évaluation de la phénoménologie d'un passé récent.

2. Il importe cependant que votre rapporteur affirme que la matière lui tient trop à cœur pour qu'il n'ait pas fait tous les efforts pour se départir de convictions et d'opinions trop controversées ou trop personnelles pour pouvoir rallier la grande majorité des tendances politiques ou nationales des délégués.

We should not be surprised to find disagreement among us on one or the other point of detail. It is, however, necessary to have the report give more attention to countries which, in a relatively recent past, suffered under a fascist government. It would furthermore be naive to believe that all the fascists then in power have disappeared as through a miracle, immediately following the fall of the Franco, Salazar or colonel regimes. They have of course kept their employment in the police, the legal machinery, the administration and industry. Such circumstances should be raised in this memorandum — to do otherwise would be surprising to say the least.

3. One could commit no greater error than to suppose that fascism and its German version, Nazism, are phenomena belonging to a specific period of political history or a limited area of the globe.

Although it assumes different external forms, fascism by the combination of certain characteristics is in essence a cast of mind which is permanent and present everywhere: belief in the strong man, putting order above justice, denying the existence of social and economic differences in the community, an irrational reaction of abandoning civil rights in the face of serious peril and the substitution of a single redeeming ideology for pluralism.

We must not deceive ourselves: democracy has genuine enemies who are convinced that it is the cause of the "weakness" of our systems, that it favours the "masses" and restricts the élite (the criteria being race, nationality, ideology or determination in action rather than education or social origin).

Though these enemies of democracy are not all on the same side (the distinction between totalitarians and fascists is practical rather than scientific) this report is only concerned with the various forms of fascist and racist propaganda:

4. What makes fascism particularly odious and dangerous is, firstly, the ostracism of part of the population and secondly the idea of a providential guide and the tendency to glorify the authority of the leader at all levels (*Führerprinzip*).

5. Discrimination against part of the population on account of its racial origin, language, religion, nationality and particularly its ideology is a feature common to all kinds of fascism and leads to the notion of the enemy of the people (*Volkschädling*) which appears even in legislation. It justifies the oppression, exploitation or even the suppression of minorities alleged to be inferior or enemies of the racial, linguistic, religious or national community which is proclaimed to be superior to others and entrusted with a providen-

Il est tout aussi certain que si l'une ou l'autre appréciation d'un point de détail ne trouve pas l'accord de tous, il n'y a à cela rien d'étonnant. Il est cependant indispensable que le rapport s'attarde plus longuement sur les pays qui ont connu jusque récemment un régime fasciste. Après tout il serait naïf de faire semblant de croire que tous ces fascistes ont disparu comme par un coup de baguette magique le lendemain de la chute des régimes franquiste, de Salazar, ou des colonels. Il est naturel qu'ils aient gardé dans la plupart des cas leurs emplois dans la police, dans la justice, dans l'administration et dans l'économie. Il est normal qu'on en parle dans cet exposé. Le contraire serait étonnant.

3. La plus grande erreur que l'on puisse commettre serait de considérer que le fascisme et sa version allemande, le nazisme, sont des phénomènes appartenant à une époque déterminée de l'histoire politique ou à une région limitée du globe.

Le fascisme, s'il peut prendre des formes extérieures diverses par l'accumulation de certains traits caractéristiques, correspond par son essence à une mentalité qui est permanente et omniprésente: recours à l'homme fort, primauté de l'ordre sur la justice, négation des différences sociales et économiques au sein de la communauté, réaction irrationnelle avec abandon des droits civiques devant des menaces graves, substitution d'une idéologie salvatrice uniforme à un pluralisme.

Il ne faut pas se leurrer: la démocratie a d'authentiques ennemis qui sont convaincus qu'elle est la cause des « faiblesses » des régimes, qu'elle avantage les « masses » et freine des élites (les critères de sélection étant la race, la nationalité, l'idéologie ou la détermination dans l'action plutôt que la formation ou l'origine sociale).

Si ces ennemis de la démocratie n'appartiennent pas tous au même bord, la distinction entre totalitaires et fascistes étant plus pratique que scientifique, le présent rapport ne s'occupe que des formes de propagande fasciste et raciste.

4. Ce qui rend le fascisme particulièrement odieux et dangereux, c'est d'une part la mise hors de la communauté d'une partie de la population, et d'autre part le principe du guide providentiel et l'exaltation de l'autorité du chef à tous les niveaux (*Führerprinzip*).

5. La discrimination d'une partie de la population en raison de son appartenance ethnique, linguistique, religieuse, nationale et surtout idéologique, est un trait commun à tous les fascismes et conduit à cette notion que l'on retrouve jusque dans la législation, l'ennemi du peuple (*Volkschädling*). Elle justifie l'oppression, l'exploitation, voire la suppression des minorités déclarées inférieures ou ennemies de la communauté raciale, linguistique, religieuse ou nationale, proclamée supérieure et investie d'une mission provi-

tial mission. We then naturally find a transplantation and uniformisation of cultures (*Gleichschaltung*) and the resurgence of ideas such as banishment and loss of nationality.

The crystallisation of an ideology around a given community, i.e. the nation, the state or the race, naturally involves the disappearance of the rights of the individual which are looked on as secondary in relation to those of the state, nation, or race. Not only does the will of the guide or chief have force of law but the system requires individual and permanent allegiance to the official ideology by mass plebiscites and repeated declarations of loyalty or militant support.

6. The combination of the ideas of glorifying an alleged superior interest, of sacrifice and of the authority of the leader produces a general deadening of the individual conscience and the emergence of a so-called collective conscience (*Volkswille, gesundes Volksempfinden*) which are given the standing of legal norms.

The exaggerated importance attributed to the virtues of manliness tend to repress the ideas of solidarity and pity for the weak and humanist principles. Strict but just (*streng aber gerecht*) is the motto which seeks to justify an administration of justice whose main objects are the punishment, neutralisation or even elimination of ordinary criminals (enemies of the people) to whom it assimilates enemies of the regime.

7. Academic writers consider that though the fascist mentality, of which racism is generally only a variety or a component, is permanent and exists everywhere the danger only becomes acute when the accumulation of really serious economic and political problems (either internal or international) exceeds the powers of comprehension and judgment of the great mass of citizens and of most politicians, whose principal aim then becomes to show that their political opponents are responsible for the situation.

It is typical of these symptoms that in the period between the two wars at least ten European countries experienced a fascist regime at one time or another and that others only narrowly escaped and that in all countries (with the exception perhaps of Scandinavia) fascist movements succeeded either in shaking the government or in influencing its politics. Since the war, the fascist systems which survived it or arose afterwards have now disappeared in Europe.

Nevertheless, the threat still exists; though there are no large-scale movements in the European countries the mentality remains, propaganda tends to reappear from time to time and related ideologies tend to become accepted.

dentielle. On assiste alors tout naturellement à des transplantations, des uniformisations culturelles (*Gleichschaltung*) et à la réapparition de pensées telles que le bannissement ou la perte de la nationalité.

La cristallisation de l'idéologie autour d'une entité communautaire, la nation, l'Etat ou la race, entraîne logiquement l'évanouissement des droits de l'individu considérés comme secondaires par rapport à ceux de l'Etat, de la nation ou de la race. Non seulement la volonté du guide ou du chef a force de loi mais on exige une adhésion individuelle et permanente à l'idéologie officielle par des votes plébiscitaires de masse et des déclarations répétées de loyauté voire de militance.

6. La combinaison de l'exaltation du prétendu intérêt supérieur de l'idée de sacrifice et de l'autorité du chef conduit à une véritable anesthésie de la conscience individuelle et à l'émergence d'une prétendue conscience collective (*Volkswille, gesundes Volksempfinden*) qui sont élevées au niveau de standards juridiques.

L'exacerbation des qualités et vertus viriles refoule les notions de solidarité et de compassion avec les faibles et les principes humanistes. Sévère mais juste (*streng aber gerecht*) est proclamée la maxime qui veut légitimer une justice orientée vers la répression, la neutralisation, voire l'élimination des ennemis des peuples de droit commun auxquels on assimile des ennemis du régime.

7. La doctrine considère que si la mentalité fasciste dont le racisme n'est en général qu'une variante ou une composante est permanente et omniprésente, le danger devient réel lorsque l'accumulation de problèmes objectivement graves sur les plans économique et politique, interne ou externe, dépasse les facultés de compréhension et de discernement de la grande masse des citoyens et de la majorité des hommes politiques, dont la préoccupation principale devient alors de démontrer que la responsabilité en incombe aux adversaires politiques.

Il est symptomatique de constater qu'entre les deux guerres une bonne dizaine de pays européens connurent à un moment ou à un autre un régime fasciste, que d'autres y échappèrent de justesse et que dans tous les pays — à l'exception peut-être des pays scandinaves — les mouvements fascistes réussirent soit à ébranler les régimes démocratiques, soit à influencer leur politique de manière significative. Depuis la guerre, l'Europe a vu s'écrouler les fascismes qui avaient survécu à la guerre et ceux qui avaient émergé après.

Mais la menace n'a pas pour autant disparu. S'il n'y a pas de mouvements majeurs dans les pays de l'Europe, la mentalité est restée, la propagande fait certaines apparitions et des idéologies voisines tendent à s'accréditer.

8. The fire is still glowing under the ashes and could spring into flame in circumstances similar to those existing before the war: unemployment and inactivity, weakness and division of the political parties, threats of war, a reversion to "protective" nationalisms, a psychosis of fear and insecurity created, maintained and exploited by conservative parties may lead to the resurgence of a fascist movement, not necessarily with the same image and the same slogans but one whose most certain criterion is the extreme simplification of problems and ready-made comprehensive solutions.

9. We already find emerging alongside traditional conservative parties which believe in democracy other self-styled rightwing parties (the new right etc.) advocating fascist ideas but alleging that they are not fascists. These extremist parties fight conservative parties just as virulently as they do the parties of centre or left.

The danger therefore will not come from a handful of nostalgic admirers of the trappings of ci-devant fascism but rather from those who advocate a new ideology based on old theories rediscovered or rebaptised and calling for increased powers to be given to the élite (defined according to their own criteria) which the masses would not be able to exercise effectively. These are not the adolescents who follow a "leader", assume conspiratorial airs, play at soldiers in fancy uniforms or disfigure the monuments, synagogues or tombs. It should not be forgotten, however, that the dynamics of illegality lead the perpetrators of such acts to much more serious ones. Recent events seem to confirm this evolution.

10. We should be suspicious of those who run down democracy exaggerating its weaknesses and praising the sense of responsibility of the élite, and to try to undermine the confidence of the population in its institutions, in which they are assisted by every variety of terrorism.

Employment problems if they remain unsolved or become more acute will produce reactions in the deprived social classes against minorities whom they either consider unfairly favoured in comparison with themselves or else hold responsible for their poverty. The recent violent riots in Miami show how racial feelings can arise in the course of a few years and may be directed against social groups who must not necessarily be the whites.

Very often all that is left to the most deprived is the supposed superiority of their colour, nationality or language. It is among the poorest that the slogans of racial discrimination are likely to find their first followers. A dema-

8. Le feu couve donc sous les cendres et pourrait reprendre à la faveur de circonstances reproduisant objectivement les conditions d'avant-guerre: chômage et désœuvrement, division et impuissance des partis politiques, menaces de guerre, retour aux nationalismes «protecteurs», psychose de peur et d'insécurité provoquée, entretenue et exploitée par des partis conservateurs, peuvent conduire à une résurgence d'un mouvement fasciste qui n'a pas nécessairement les mêmes apparences ni les mêmes slogans mais dont la symptomatologie la plus sûre est la simplification à l'extrême des problèmes et des solutions à caractère global.

9. Déjà nous voyons apparaître à côté des partis conservateurs traditionnels, attachés à la démocratie, des partis se disant de droite, de nouvelle droite, etc., et prônant des idées fascistes tout en se défendant d'être fascistes. Ces partis extrémistes combattent les partis conservateurs avec autant d'acharnement que les partis du centre ou de gauche.

Aussi le danger ne viendra-t-il point de quelques nostalgiques des atours d'anciens fascismes, mais plutôt de ceux qui, proposant une idéologie nouvelle se réclamant d'anciennes théories redécouvertes ou rebaptisées, revendiquent au profit de l'élite (définie selon leurs propres critères) des pouvoirs et des compétences accrues que la multitude ne serait pas à même d'exercer utilement. Ce ne sont pas les adolescents qui sous la conduite d'un «chef» tantôt se donnent des airs de conspirateurs, tantôt jouent aux combattants dans des uniformes de fantaisie, tantôt se livrent au barbouillage de monuments, de synagogues ou de tombes. Il ne faut cependant pas perdre de vue que la dynamique de l'illégalité conduit les auteurs de pareils actes à des attentats plus graves. Les derniers événements semblent confirmer cette évolution.

10. Il faudra se méfier de ceux qui, vilipendent la démocratie, exagérant ses faiblesses, vantant la responsabilité de l'élite, s'emploient à déstabiliser la confiance des citoyens dans les institutions, aidés en cela par le terrorisme de tout poil.

Les problèmes sociaux, s'ils se prolongent ou s'aggravent, entraîneront des réactions des couches sociales marginales contre des minorités qu'ils estiment soit favorisées par rapport à elles, soit responsables de leur misère. Les récents événements sanglants à Miami montrent comment les ressentiments raciaux peuvent naître en peu d'années et peuvent se tourner contre des groupes sociaux qui ne sont pas nécessairement les seuls Blancs.

Très souvent il ne reste aux plus défavorisés que la prétendue supériorité qu'engendre la couleur de la peau, leur nationalité ou leur langue. Et ce sera dans les milieux les plus pauvres que les paroles de discrimination raciale risquent de trou-

gogue who tells an ignorant, illiterate white with no work and no hope that he belongs to a superior race is more than likely to be listened to. Being white will be the only thing to be proud of that society has left to the outcast.

We should therefore worry less about ideologies and propaganda than the factual conditions capable of providing a culture medium on which they can grow: poverty, underdevelopment, unemployment, ignorance and lack of education. Also nationalism and chauvinism with their affirmation of superiority or national virtues constitute psychological attitudes which pave the way for discrimination based on race, language or national frontiers.

It is important not to mistake cause and effect. Practically every form of racism is based on economic or on political causes, apart of course from human stupidity.

Scope of this report

11. Since the committee has dealt elsewhere with the growing problem of political terrorism in Europe, I have confined this interim report to recent evidence of propaganda and agitation by groups which are either overtly fascist or neo-Nazi, or which share with such organisations an appeal based on some form of authoritarian answer to an alleged threat to the nation or the race — usually equating the two. I have not dealt with those terror groups which, in their desire to "liberate" a particular territory, do so on the basis in part of claims of racial exploitation: the ETA claims for the Basques, and the provisional IRA for the Irish, against the Spanish and British states respectively, fall into this category. Instead, I have taken recent examples of what the whole committee will, I hope, regard as racialism of a kind odious in any democratic and pluralist society. I begin with two events in Europe itself during 1979.

12. Finally two other observations are called for on the subject of those parts of the report more particularly concerned with the racist aspects of fascist propaganda. The first is to stress that the phenomenon of racism is unfortunately not limited to ideologies and regimes of a fascist character. Typically racist characteristics are to be found in other totalitarian regimes: the problem of anti-Semitism in the Soviet Union is a striking example. The second observation is also relevant to understanding the report as a whole. Your Rapporteur is aware that in addition to the open and unabashed manifestations of racist propaganda there is a creeping and hidden racism which can be observed between the lines of certain newspaper articles or extracted from the dialogue of

ver les premiers adeptes. Le démagogue qui dira au Blanc illettré et ignorant, sans travail et sans espoir, qu'il est d'une race supérieure aura toutes les chances d'être écouté. Être blanc sera le seul motif de fierté que la société aura laissé au marginal.

Ce sont donc moins les idéologies et les propagandes qui doivent nous préoccuper que les conditions objectives qui seraient de nature à leur servir de bouillon de culture: la misère, le sous-développement, le chômage, l'ignorance, le manque d'éducation. De même, les chauvinismes et nationalismes, les affirmations de supériorités ou de vertus nationales constituent des attitudes psychologiques préparant aux discriminations raciales voire simplement linguistiques ou procédant de frontières nationales.

Il ne faut pas confondre causes et effets. Il n'y a guère d'exemple d'un racisme qui n'ait eu des causes autres qu'économiques ou politiques, excepté la bêtise humaine.

Délimitation de l'objet du rapport

11. Comme la commission s'est occupée ailleurs de l'aggravation du terrorisme politique en Europe, je bornerai mon rapport provisoire aux actes récents de propagande et d'agitation de groupes qui sont ouvertement fascistes ou néonazis ou qui prétendent comme eux recourir à une forme de régime autoritaire pour écarter la menace qui leur paraît peser sur la nation ou sur la race, qu'ils amalgament ordinairement. Je n'ai pas traité des groupes terroristes qui, dans leur désir de « libérer » tel ou tel territoire, déclarent s'insurger contre une exploitation raciale: les revendications de l'ETA pour les Basques et de l'IRA provisoire pour les Irlandais dirigées contre l'Espagne et la Grande-Bretagne entrent dans cette catégorie. J'ai tiré mes exemples d'événements récents que l'ensemble de la commission, je pense, regardera comme inspirés d'un racisme odieux dans n'importe quelle société démocratique et pluraliste. Je commencerai par deux événements survenus en Europe en 1979.

12. Enfin, deux autres observations s'imposent à l'égard des parties du rapport concernant plus spécialement les aspects racistes de la propagande fasciste. La première consiste à souligner que le racisme n'est malheureusement pas un phénomène limité aux idéologies et aux régimes de caractère fasciste. En effet, des caractères typiquement racistes sont perçus au sein d'autres régimes totalitaires: le problème de l'antisémitisme en Union Soviétique en est un exemple saillant. La deuxième observation est également utile à la compréhension de l'ensemble du rapport. Votre rapporteur n'ignore pas qu'à côté des manifestations de propagande raciste ouvertes et impudentes il existe une propagande raciste sournoise et cachée qu'il faut lire entre les lignes de certains

films, comic strips and other forms of mass communication. This variety of racism is especially directed against foreigners, such as certain categories of migrant workers.

Apart from the fact that this creeping racism constitutes a discrimination in itself, it constitutes a state of mind creating a predisposition to more virulent forms which can break out under pressure of economic and social causes, or as the result of a political ideology, or a combination of the two.

The reception of "Holocaust"

13. The American television series "Holocaust" has been widely shown in Europe in the past year. Your Rapporteur would not wish to enter into the merits of turning a gigantic human tragedy into soap opera in this way, but the series touched a raw nerve throughout Europe. The response to it has in itself been a major indicator of how far resurgent fascism would attempt to rewrite contemporary European history. A number of attempts to rewrite that history have already been made. In America "Professor" A. R. Butz has written *The Hoax of the Twentieth Century*, which argues that the gas chambers, the camps, and the policy of extermination, were all post-war propaganda fabrications. This theme has been echoed by "Richard Harwood" (the pseudonym of Richard Verrall), Director of Administration in Britain's neo-fascist National Front, in his book *Did Six Million Really Die*, and most recently by the Australian John Bennett, in an article in the Australian *National Review*, which has received wide publicity. Bennett is employed in the Australian Attorney General's office, and his views have been gratefully recycled by the National Front journal *Spearhead*, as confirming its own belief that there were no death camps, and that the gas chambers were a fabrication of the Allies after the war. Verrall himself wrote in the March 1979 *Spearhead* that "criticism of racialism is coming increasingly to rely on the argument that racialism led to the holocaust ... If it is not true ... then one of the most emotive arguments against the racist cause is seen to be a hoax in itself."

14. The reception of "Holocaust" in Germany and Austria has been of particular interest. The vast majority of their populations were absorbed, curious, and thoughtful, and would have echoed the words of Chancellor Kreisky at the SPÖ Congress at Linz, just after the screening of the first episode in Austria; calm and reasoned discussion of the period was the best way to see that it never returned. German neo-Nazis denounced the films as a plot to frustrate the Statute of Limitation, and to brainwash future generations of Germans to feel guilty and helpless. The *Deutsche Nationalzeitung* devoted four com-

articles de journaux ou capter dans les dialogues et dans les situations mises en évidence dans les films, les bandes dessinées et autres formes de communications de masse. C'est une sorte de racisme qui frappe surtout les étrangers, tels que certaines catégories de travailleurs émigrés.

Ce racisme rampant outre qu'il constitue une discrimination *per se* constitue un état d'esprit créant une prédisposition aux formes plus virulentes qui peuvent éclore soit sous la pression de causes économiques ou sociales, soit à la suite d'une idéologie politique, soit des deux à la fois.

L'accueil de « Holocauste »

13. Le feuilleton télévisé américain « Holocauste » a été présenté largement en Europe l'année dernière. Je n'examinerai pas dans quelle mesure il était bon de transformer une gigantesque tragédie humaine en un mélodrame, mais ce feuilleton a touché une corde sensible dans toute l'Europe. Les réactions ont montré combien un fascisme renaissant voudrait réécrire l'histoire contemporaine de l'Europe. Plusieurs tentatives en ce sens ont déjà été faites. En Amérique le « professeur » A.R. Butz a écrit *The Hoax of the Twentieth Century* où il soutient que les chambres à gaz, les camps et la politique d'extermination sont des fabrications de la propagande d'après-guerre. Ce thème a été repris par « Richard Harwood » (pseudonyme de Richard Verrall), directeur de l'administration du Front national néo-fasciste de Grande-Bretagne dans son livre *Did six million really die* et récemment par l'Australien John Bennett dans un article de la *National Review* australienne, qui a reçu une large publicité. Bennett travaille au ministère public australien et son point de vue a été joyeusement diffusé par la revue *Spearhead* du Front national, qui voyait ainsi confirmée sa conviction qu'il n'existait pas de camps de la mort et que les chambres à gaz étaient une invention des alliés pendant la guerre. Verrall lui-même a écrit dans le numéro de mars 1979 de *Spearhead* que : « Les critiques du racisme font valoir de plus en plus que le racisme a conduit à l'holocauste ... Si ce n'est pas vrai ... alors l'un des arguments les plus passionnés contre la cause du racisme apparaît comme une mystification. »

14. L'accueil de « Holocauste » en Allemagne et en Autriche est particulièrement intéressant. La grande majorité, fascinée, a été portée à s'interroger et à réfléchir et elle aurait approuvé les paroles prononcées par le Chancelier Kreisky au Congrès de la SPÖ à Linz peu après la présentation du premier épisode en Autriche ; un débat calme et raisonné sur cette période était le meilleur moyen d'empêcher définitivement son retour. Les néo-nazis ont dénoncé ces films, où ils ont vu une conspiration visant à tourner la loi de prescription et à inculquer aux générations futures d'Allemands un sentiment de culpabilité et de

plete issues to the "fraud" of "Holocaust", saying it was mounted by the "Zionist TV networks" in the USA. The *Deutsche Wochen-Zeitung* asked "How much more will they dare expect our people to put up with before one day we shall stand on the barricades?". The journal of the extreme rightist National Democratic Party, *Deutsche Stimme*, carried an article by its leader Martin Mussgnug stating that "US-Jewish profiteers" were using atrocity stories to secure "for all time, the existence of the State of Israel by way of payment of billions".

15. It must also be pointed out, however, that West Germany did more than any other country to prepare its citizens for the experience of the film series. Special teaching aids were distributed, and supplementary documentaries were made. 41% of the entire TV audience watched the final episode, and there were many thousands of letters and phone calls afterwards. Three-quarters of all the viewers would have been born after Hitler's rise to power. 81% discussed the film with others, and 65% admitted to being deeply moved, according to the Allensbach Institute survey.

16. When the "Holocaust" series was shown in Switzerland it coincided with a certain number of bomb attacks and threats against the Jewish community. Synagogues were desecrated in Basle, Geneva and La Chaux-de-Fonds. However, there was also an exhaustive study published of the history of anti-Semitism in Switzerland — Max Schmid's *Schalom, Wir werden euch töten*, recalling the pre-war Swiss National Front, and the wartime sealing of the frontiers. A considerable public debate in the Swiss press followed. In France, it is estimated that around 25 million people watched "Holocaust", opening up a debate on France's own treatment of the Jews during the Vichy period. The series was only shown at all after considerable pressure from the public, and leading figures like Simone Veil — herself a former inmate of the camps. The film made for television, "Les Guichets du Louvre" — about the round-up of the Jews of Paris in 1942, was finally shown in the cinema in 1979. These programmes may have balanced the notorious interview given to *L'Express* by the former Vichy Commissioner for Jewish Affairs, Louis Darquier de Pellepoix, in which he announced that "only lice were gassed" in Auschwitz. Photographs of the corpses, he said, were "fakes". Pellepoix claimed that the camps were specially constructed after the war "creating disorder everywhere and making Jerusalem into the capital of the world".

17. The other recent indicator of latent neo-Nazi tendencies has been the small cluster of incidents taking place around the ninetieth birthday of Adolf Hitler. There was a bomb attack on the Vienna Synagogue, coinciding with neo-Nazi

désarroi. La *Deutsche Nationalzeitung* a consacré quatre numéros pleins à l'«escroquerie» de «Holocauste», montée à son avis par les «chaînes de télévision sionistes» des Etats-Unis. La *Deutsche Wochen-Zeitung* a posé la question: «De combien d'avaries oseront-ils encore couvrir notre peuple avant qu'un jour nous nous dressions sur les barricades?» La revue d'extrême droite *Deutsche Stimme* du parti national-démocrate a publié un article de son chef Martin Mussgnug déclarant que les «profiteurs juifs américains» recouraient à des histoires d'horreur pour garantir «à tout jamais l'existence de l'Etat d'Israël grâce au paiement permanent de milliards».

15. Il faut observer, cependant, que l'Allemagne occidentale a préparé ses citoyens mieux que tout autre pays à recevoir le feuilleton télévisé. On a distribué des aide-mémoire spéciaux et produit des documentaires nouveaux. Le dernier épisode a été vu par 41 % des téléspectateurs, qui ont envoyé ensuite plusieurs milliers de lettres et d'appels téléphoniques. Les trois quarts des téléspectateurs sont nés après la prise de pouvoir par Hitler, 81 % ont parlé du film avec d'autres et 65 % ont avoué leur profonde émotion, d'après une enquête de l'Institut Allensbach.

16. La présentation de «Holocauste» en Suisse a coïncidé avec un certain nombre d'attaques à la bombe et de menaces dirigées contre la communauté juive. Des synagogues ont été profanées à Bâle, à Genève et à La Chaux-de-Fonds. Cependant, une étude exhaustive sur l'histoire de l'antisémitisme en Suisse a aussi été publiée: le livre *Schalom, wir werden euch töten* de Max Schmid rappelle le Front national suisse d'avant-guerre et le bouclage des frontières après-guerre. Un formidable débat a suivi dans la presse suisse. En France, on estime qu'environ 25 millions de personnes ont vu «Holocauste» qui a ouvert un débat sur le traitement réservé par la France aux juifs pendant la période de Vichy. Le feuilleton n'a pu être présenté que sous une forte pression du public et de personnalités éminentes comme Simone Veil, ancienne déportée dans les camps. Le film de télévision «Les guichets du Louvre», qui traite de la rafle des juifs à Paris en 1942, a finalement été présenté dans les cinémas en 1979. Ces films ont sans doute compensé l'interview tristement fameuse accordée à *L'Express* par l'ancien commissaire de Vichy aux affaires juives, Louis Darquier de Pellepoix, où il déclarait que «seuls les poux ont été gazés» à Auschwitz. Les photographies de cadavres, a-t-il dit, étaient des «faux». Pellepoix a soutenu que les camps ont été spécialement construits après la guerre pour «créer partout le désordre et faire de Jérusalem la capitale du monde».

17. Les tendances néo-nazies latentes ont été récemment révélées par les quelques incidents auxquels a donné lieu le quatre-vingt-dixième anniversaire de la naissance d'Adolf Hitler. Il y a eu simultanément un attentat à la bombe contre la

demonstrations at Hitler's former house at Braunau, in which a number of those present wore the uniforms of the Third Reich. In Spain a number of neo-Nazis were arrested in Madrid, following a bomb attack on Jewish-owned shops in the centre of the city. They had openly paraded there earlier. In France three synagogues, at Antibes, Strasbourg-Cronenbourg and Sélestat, were attacked and vandalised in separate incidents. In the National Assembly, Mr Combrisson, of the Communist Party, drew attention in the following week to these outrages, and the defacing of the monument to Georges Mandel in the Forest of Fontainebleau. He linked the events with the increasing penetration of France by neo-Nazi publications like *Notre Europe*, the journal of the Fédération d'action nationale et européenne, or FANE, who style themselves "les fascistes de toujours", and *Défense de l'Occident*. Such publications have tiny circulations, and recycle Nazi propaganda with apparent impunity.

France: the arrival of a new theory of the élite race

18. The neo-fascist right in France is a negligible force politically. Since the banning of *Ordre nouveau* in 1973 two small groups have contested elections, the Front national and the parti des Forces nouvelles. Neither has managed to get 1% of the total vote. Neither took part in the 1978 elections because they could not agree on a common programme. *Défense de l'Occident* complained bitterly that they were "insufficiently fascist". It claimed that "an army of nobodies has encamped all over the territory of the right", looking for "some sort of police chief as head of state". Groups of this kind have only been hailed in US Nazi journals as the nucleus of the new European order — a position which would not be yielded to it by others on the right in France.

19. In the past years, however, there have been disturbing developments. Three small terrorist groups have become active. The French National Liberation Movement and the Peiper Group (named after a former SS officer) have claimed responsibility for various daubings and bombings in France. Their targets have been the two million Muslims and the half million Jews in France. One bomb attack in July 1979 was on the car of the Jewish Nazi hunter, Mr Klarsfeld. These stupidities are unlikely to win more support for the neo-fascists than the derisory 1% which they have enjoyed in the polls for many years.

synagogue de Vienne et des manifestations néo-nazies dans l'ancienne maison d'Hitler à Braunau, où plusieurs manifestants portaient l'uniforme du Troisième Reich. En Espagne, un certain nombre de néo-nazis ont été arrêtés à Madrid, à la suite d'un attentat à la bombe contre les magasins tenus par des juifs dans le centre de la ville, où ils venaient de défiler. En France, trois synagogues ont été attaquées et saccagées à Antibes, Strasbourg-Cronenbourg et Sélestat. À l'Assemblée nationale, le député communiste Combrisson a attiré l'attention la semaine suivante sur ces ignominies et sur la détérioration du monument à Georges Mandel dans la forêt de Fontainebleau. Il a lié ces événements à la pénétration de publications néo-nazies en France, telles que *Notre Europe*, revue de la Fédération d'action nationale et européenne ou FANE, dont les membres se nomment eux-mêmes les « fascistes de toujours », et *Défense de l'Occident*. Ces publications, à faible tirage, diffusent la propagande nazie apparemment dans l'impunité.

France: l'apparition d'une nouvelle théorie de la race d'élite

18. La droite néo-fasciste en France est une force négligeable en politique. Depuis l'interdiction d'*Ordre nouveau* en 1973, deux groupuscules ont contesté les élections, le Front national et le parti des Forces nouvelles. Aucun n'a obtenu 1% des voix. Ils n'ont pas pris part aux élections de 1978 parce qu'ils n'ont pas pu se mettre d'accord sur un programme commun. La revue *Défense de l'Occident* leur a vivement reproché d'être « insuffisamment fascistes ». Elle a prétendu « qu'une armée de nullités a campé sur tout le territoire de la droite » cherchant « une sorte de chef de police comme chef d'Etat »¹. Les groupes comme ceux-là n'ont été pris au sérieux que par les fascistes de l'étranger (FANE, par exemple, a été fêté dans les revues nazies américaines comme le noyau du nouvel ordre européen, situation que d'autres éléments de la droite française ne lui reconnaissent pas).

19. Ces deux dernières années, pourtant, des événements troublants se sont produits. Trois groupuscules terroristes se sont manifestés. Le Mouvement français de libération nationale et le Groupe Peiper (ainsi nommé d'après un ancien officier SS) ont revendiqué des barbouillages et des attentats en France. Leurs cibles ont été les 2 millions de musulmans et le demi-million de juifs en France. La voiture de M. Klarsfeld, juif qui pourchasse les nazis, a été visée par un attentat à la bombe en juillet 1979. Ces idioties ont peu de chances de gagner de nouveaux partisans au néo-fascisme et de lui faire franchir la barre de 1% aux élections.

1. Retraduit de l'anglais.

20. Perhaps because of this a "new right" has now been unveiled. The Groupement de recherche et d'études pour la civilisation européenne needs its rather clumsy title to achieve the acronym GRECE. It was unveiled with massive publicity in *Figaro magazine* (the colour supplement of the daily newspaper), with a doctrine which is based on eugenics and the theory of the political élite as opposed to the decadent Judeo-Christian tradition. It is inspired by the 36-year-old journalist Alain de Benoist, a student revolutionary of 1968 who has now swung right across the political spectrum. He edits the journal of GRECE, *Nouvelle école*. He claims to be opposed to totalitarianism and to the violence of previous rightist groups like Action française, but his ideas are intrinsically bound up with the search for the Aryan super race, uncontaminated by theories of equality or by race mixing. (The research group of GRECE goes by the acronym GENE, and one of its recent publications asserts that "systematic hybridisation can be a privileged route to genocide".) A number of French commentators have drawn attention to the links between the leaders of GRECE and the 120-strong Club de l'Horloge, founded in 1974 by and for the élite members of the French civil service, though most of the latter, including the Club's founder Ivan Blot, belong to the orthodox French political parties.

FANE (Fédération for National and European Action), a movement openly presenting itself as neo-Nazi, born in 1966 following the fusion of two dissident wings of the movement "Occident", has just been banned by the French Government. Its most prominent leader, Marc Frederiksen, who exposes the theory of the "right choice for the race" in the organisation's monthly *Notre Europe*, now stands accused by the Paris courts for "justification of war crimes and incitement to racial hatred". On 3 September the French Government ordered the dissolution of FANE. The latter's response was rapid: on 6 September the movement published a communiqué in which it announced that its actions would become "increasingly numerous and violent", adding that "one day we will resort to bloodshed". The communiqué also listed sixty-seven French Jewish personalities who were threatened. It ended with the raving phrase: "One God: Adolf Hitler".

Germany today

21. The number of extreme right-wing groups in the Federal Republic is variously estimated at between 80 to 120, ranging from the National Democratic Party to small groups of a few dozen members. What is agreed is that the overall membership of these groups has declined

20. C'est sans doute la raison pour laquelle une « nouvelle droite » se révèle maintenant. Le Groupement de recherche et d'études pour la civilisation européenne est le titre assez maladroit qui a servi à dégager le sigle GRECE. Il s'est manifesté par une publicité massive dans le supplément en couleurs de *Figaro magazine*, par une doctrine fondée sur l'eugénisme et sur la théorie de l'élite politique s'opposant à la tradition judéo-chrétienne décadente. Son inspirateur est le journaliste de 36 ans Alain de Benoist, étudiant révolutionnaire de 1968 qui a maintenant viré à droite. Il fait paraître la revue du GRECE, *Nouvelle école*. Il prétend s'opposer au totalitarisme et à la violence des groupes précédents de droite comme Action française, mais ses idées sont intrinsèquement liées à la recherche de la race supérieure aryenne, épargnée par les théories égalitaires ou par les mélanges raciaux (le groupe de recherche du GRECE a pour sigle GENE et l'une de ses récentes publications affirme que l'hybridation systématique peut être une route privilégiée vers le génocide). Plusieurs commentateurs français ont fait observer les liens qui existent entre les dirigeants du GRECE et le Club de l'Horloge, fort de 120 membres et fondé en 1974 par et pour l'élite des fonctionnaires français, encore que la plupart d'entre eux et notamment le fondateur du Club Ivan Blot appartiennent aux partis politiques français orthodoxes.

La FANE (Fédération d'action nationale et européenne), un mouvement se présentant ouvertement comme néo-nazi, né en 1966 de la fusion de deux branches dissidentes du mouvement « Occident », vient d'être interdite par le Gouvernement français. Son principal dirigeant, Marc Frederiksen, qui dans la revue mensuelle de l'organisation, *Notre Europe*, développe la théorie du « bon choix pour la race » est actuellement poursuivi par le Parquet de Paris pour « apologie de crimes de guerre et incitation à la haine raciale ». Le 3 septembre, le Gouvernement français a ordonné la dissolution de la FANE. La réponse de ce dernier n'a pas tardé : le 6 septembre le mouvement diffusait un communiqué dans lequel il annonçait que ses actions deviendraient « de plus en plus nombreuses et de plus en plus violentes », et ajoutait « un jour nous ferons couler le sang ». Le communiqué contenait également une liste de soixante-sept personnalités juives françaises objets de menaces. Le communiqué concluait par une phrase délirante : « un seul Dieu : Adolf Hitler ».

L'Allemagne aujourd'hui

21. Le nombre de groupes d'extrême droite en République fédérale varie entre 80 et 120 selon les estimations, depuis le parti national-démocrate jusqu'aux groupuscules de quelques dizaines de membres. Tout le monde reconnaît que ces groupes ont perdu des adhérents ces der-

in recent years. The NPD itself, which was once able to achieve parliamentary representation, has fallen from 28 000 ten years ago to under 9 000 today. Reported crimes by apparent neo-Nazis have, however, been increasing over the last three years and the Bonn authorities have expressed concern over the increasingly conspiratorial nature of some of the new groups. They may well be proving that violence, as practised by the terrorist extreme left in Germany is imitative and to that extent seductive. Some of the small neo-Nazi groups express open admiration for the Baader-Meinhof gang, and seek links with Palestinian terror organisations.

22. The decline of the NPD is likely to continue. Indeed it only appeared a significant force in politics in the years 1967-69. In Hesse, where it once had eight seats in the *Land* parliament, it now has no more than 800 members all told. Only its youth wing, the *Junge Nationaldemokraten*, has grown slightly in recent years, and has moved away from its parent body. It is stridently for the repatriation of foreigners and promises the "coming storm" against the parties of the old system. The *Junge Nationaldemokraten* attracts young men who have either family or personal reasons to reject the modern German state and campaign for "an end to the war guilt lie, to the non-stop payments and the Red Front clique in Bonn". The second largest group is the *Deutsche Volksunion*, led by Gerhard Frey, the Munich publisher of *Deutsche Nationalzeitung*, which has a weekly printing of around 100 000. The *Deutsche Volksunion* has its own youth wing, the *Wiking Jugend*. Newer groups emerging in recent years include the *Deutsche Bürgerinitiative* led by the renegade lawyer Manfred Roeder, and the *Aktionsfront der Nationalsozialisten* led by former army lieutenant Michael Kuhnen.

23. These last two are among the most open anti-Semites active in Germany. Kuhnen claims links with, and finance from an American Nazi party based in Nebraska, surrounds himself with Nazi relics, and boasts at his Hamburg headquarters that he has "lists with many names — judges, policemen, solicitors and communists — for X Day". Roeder has said, in language reminiscent of Baader-Meinhof, "terror is a must if changes are to be brought about". He describes the German Government as "a freemasons' and Jews' republic", and has publicly laid wreaths at Nuremberg in honour of the executed Nazi war criminals. After the Hamburg attack, Roeder and a number of militants were arrested.

24. The reaction of the Federal Government to these sporadic outbursts from the lunatic right,

nières années. Le NPD lui-même, capable autrefois d'avoir une représentation au Parlement, est tombé de 28 000 membres il y a dix ans à moins de 9 000 aujourd'hui. Néanmoins, la criminalité attribuée à des néo-nazis a augmenté depuis trois ans et les autorités de Bonn se sont montrées préoccupées par le penchant grandissant de certains de ces nouveaux groupes pour la conspiration. La preuve pourrait bien être faite que la violence pratiquée par le terrorisme d'extrême gauche en Allemagne est contagieuse, et, dans cette mesure, séduisante. Certains groupuscules néo-nazis admirent ouvertement la bande Baader-Meinhof et cherchent à instituer des liens avec les organisations terroristes palestiniennes.

22. Le déclin du NPD va sans doute se poursuivre. En effet, c'était seulement dans les années 1967 à 1969 que ce parti a semblé une force sérieuse sur l'échiquier politique. En Hesse, où il a eu huit sièges au parlement régional, il n'a pas plus de 800 membres inscrits maintenant. Seuls les jeunes de ce parti, les *Junge Nationaldemokraten*, ont connu un léger essor ces dernières années et ils se sont séparés du parti, réclamant à grands cris le rapatriement des étrangers et annonçant « l'imminence d'un orage » contre les partis du vieux système. Les *Junge Nationaldemokraten* attirent des jeunes qui pour des raisons familiales ou personnelles rejettent l'Etat allemand moderne et font campagne « contre l'idée mensongère de la culpabilité de la guerre, contre la poursuite des indemnisations et contre la clique du Front rouge à Bonn ». Ensuite, le groupe le plus important est la *Deutsche Volksunion*, dirigée par Gerhard Frey, éditeur munichois de la *Deutsche Nationalzeitung*, qui tire à environ 100 000 exemplaires par semaine. La *Deutsche Volksunion* a son aile jeune, la *Wiking Jugend*. Parmi les groupes formés récemment, on compte la *Deutsche Bürgerinitiative* conduite par l'ancien avocat Manfred Roeder et l'*Aktionsfront der Nationalsozialisten* conduit par l'ancien lieutenant Michael Kuhnen.

23. Ces deux derniers mouvements sont parmi les plus ouvertement antisémites d'Allemagne. Kuhnen prétend qu'un parti nazi américain ayant son siège dans le Nebraska a des liens avec son parti et le finance. Lui-même s'entoure de reliques nazies et se vante à son siège de Hambourg d'avoir « la liste de nombreux juges, policiers, avocats et communistes prête pour le jour J ». Roeder, dans un langage qui rappelle celui de Baader-Meinhof, a déclaré que « la terreur est indispensable pour opérer des changements ». Il voit dans le Gouvernement allemand une « république de franc-maçons et de juifs » et il a publiquement déposé des couronnes à Nuremberg en l'honneur de criminels de guerre nazis qui ont été exécutés. Après l'attentat de Hambourg, Roeder et plusieurs militants ont été arrêtés.

24. Devant ces éclats sporadiques de l'extrême droite et la multiplication plus inquiétante des

and the more worrying increase in violent incidents involving young people, has been firm. In 1977 ex-Chancellor Brandt called for appropriate action to be taken against neo-Nazi "enemies of the state". At about the same time eleven army officers in Munich, in the course of a drinking bout, sang Nazi songs and burned pieces of paper bearing the word "Jew". All the officers were disciplined, and new military courses in National Socialism's true history were instituted. Justice Minister Vogel called for reports from all the *Land* governments about neo-Nazi activities in their regions. The use of the swastika on toys has been banned and attempts are being made to alter the law so as to allow the banning of articles linked with fascist organisations which pre-date the 1949 Constitution (as would a copy of *Mein Kampf* embossed with swastikas, for example). The Federal Republic shows no signs of being unable to deal with either the 1 500 or so active members of left-wing terrorist groups and their sympathisers, or with the 1 000 or so members of fringe right-wing groups. In 1978 and 1979 tougher action against neo-Nazis included the banning of over fifty publications, or the prohibition of their sale to minors, raids on a number of juvenile groups in Lower Saxony and stiff prison sentences for groups in Berlin and Lower Saxony who had propagated violence and race-hatred as part of their neo-Nazi philosophy. Kuhnert himself escaped gaol, but lost his civil rights for five years. These sentences mark a real determination to crack down on right-wing subversion, and have taken place in a year in which the Bundestag has agreed to extend the period of the Statute of Limitations.

25. The position in the Federal Republic, therefore, is one in which neo-Nazi sentiments cannot be said to have taken any great hold, but where any further resurgence will only be combated by a concerted campaign of vigilance and political education on the part of the democratic parties, the armed forces, the trade unions and the schools. Such a programme is now being mounted, and it is to be hoped that it will allow a new generation to lay the Hitler ghost at last.

Recent fascist and racist activities in other member countries

The following section looks briefly at the situation in a number of other West European countries.

26. Austria has one of the most stable political systems in Europe. The ruling Social Democrats, who have just won a third term of power under Chancellor Kreisky, have recently called in their Congress for an examination of the roots of neo-fascism in Austria. Austria has its own

violences commises par des jeunes, le Gouvernement fédéral a réagi fermement. En 1977, l'ancien Chancelier Brandt a demandé des mesures contre « les ennemis néo-nazis de l'Etat ». Presque simultanément, à Munich, onze officiers ont entonné des chants nazis et brûlé des morceaux de papier portant le mot « juif » au cours d'une beuverie. Tous les officiers ont été punis et des cours sur la véritable histoire du national-socialisme ont été institués dans l'armée. Le ministre de la Justice M. Vogel a demandé à tous les gouvernements des *Länder* de faire rapport sur les activités néo-nazies dans leur région. L'emploi de la *svastika* sur les jouets a été interdit et des efforts sont en cours pour modifier la loi, de façon à autoriser l'interdiction d'articles liés aux organisations fascistes antérieures à la Constitution de 1949 (par exemple un exemplaire de *Mein Kampf* marqué de la *svastika*). La République fédérale ne donne pas l'impression d'être incapable de venir à bout des quelque 1 500 membres actifs des groupes terroristes de gauche et de leurs sympathisants ou du millier de membres des groupes marginaux de droite. En 1978 et 1979, la lutte contre les néo-nazis s'est durcie, notamment par l'interdiction ou l'interdiction de vente aux mineurs de plus de cinquante publications, par des actions contre des groupes de jeunes en Basse-Saxe et par des condamnations à la réclusion sévère infligées cette année à des groupes de Berlin et de Basse-Saxe qui avaient propagé la violence et la haine raciale dans le cadre de leur philosophie néo-nazie. Kuhnert lui-même a échappé à la prison, mais il a perdu ses droits civiques pour cinq ans. Ces condamnations traduisent la détermination d'écraser la subversion de droite et elles ont eu lieu l'année où le Bundestag a décidé d'étendre la période prévue par la loi de péremption.

25. Par conséquent, on peut dire qu'en Allemagne fédérale les sentiments néo-nazis n'ont pas beaucoup d'écho, mais que leur recrudescence ne pourra être combattue que par une campagne concertée de vigilance et d'éducation politique de la part des partis démocratiques, de l'armée, des syndicats et des écoles. C'est le programme qui est en chantier et il faut espérer qu'il permettra à la génération nouvelle de chasser définitivement le fantôme d'Hitler.

Activités fascistes et racistes récentes dans d'autres pays membres

Ce chapitre examine brièvement la situation dans plusieurs autres pays d'Europe occidentale.

26. L'Autriche a l'un des systèmes politiques les plus stables d'Europe. Les sociaux-démocrates au pouvoir, qui viennent de gagner une troisième bataille sous la conduite du Chancelier Kreisky, ont récemment demandé au congrès l'examen des origines du néo-fascisme en Autriche. L'Autriche

Nationaldemokratische Partei, led by Norbert Burger (who collected 140 000 votes, or 3.2% of the total in the presidential elections on 18 May this year), and a youth wing, the Aktion Neue Rechte, which pulls in about 1.5% of the vote in Vienna University student elections. The ANR was founded in 1974, various earlier groups having been banned. There is no evidence that such activities or publications are on the increase in Austria.

27. Belgium has received a good deal of unsavoury publicity because of the international rallies hosted by the VMO — Vlaamse Militante Orde — which draws its local support from a certain Flemish nationalism. In 1977 the VMO, a very small group unsupported by any political party, staged a major rally near Ostend, with ceremonies at the graves of wartime Nazi collaborators. There were prominent delegations from all the North European neo-fascist parties, for the VMO is fond of emphasising the racial links between them, and the international "Aryan" basis of the Waffen SS. VMO and another Flemish neo-Nazi group, Were Di, have been prominent in calling for an amnesty for wartime collaborators, a pre-occupation of their publications *Eecloonaar* and *Humo*. There have been some examples of armed attacks on Jews in both Ostend and Brussels. In Wallonia, the group "Front de la Jeunesse" is active and does not stop short of violence. Many of the most blatant neo-Nazi books have been published in Belgium for circulation in the francophone world.

28. Italy has been plagued for some years by both left and right-wing terrorist groups. In some respects, their violence and their anti-Semitism, the extreme left and the extreme right are hard to distinguish. The end product of what they do is the same, death and desolation of hundreds of innocent people, the last instance being the senseless bombing of the railway station in Bologna. The end they wish to achieve in the short-run — the overthrow of the institutions of the democratic state — is the same also.

Italy's main neo-fascist party, the Movimento Sociale Italiano (MSI), led for thirty-three years by Giorgio Almirante, merged with Destra Nazionale (DN) in 1973. The combined MSI/DN grouping had, briefly, 400 000 members, fourteen senators and thirty-five deputies. But it split in 1977 when a number of the parliamentary deputies formed Democrazia Nazionale, supposedly untainted by fascism or terrorism. The newspaper *Il Borghese* supports them. Almirante himself has been forced increasingly to seek a "European" role as spokesman for a "classic right" rather than a neo-fascist one.

Unquestionably the most serious event was the massacre resulting on 2 August 1980 from

a son propre parti national-démocrate, dirigé par Norbert Burger (qui a recueilli 140 000 votes, ou 3,2 % de l'électorat lors des élections présidentielles du 18 mai dernier), et un mouvement de jeunes, l'*Aktion Neue Rechte*, qui rassemble environ 1,5 % des voix aux élections des étudiants de l'Université de Vienne. L'ANR a été fondée en 1974, après l'interdiction de plusieurs autres groupes. Il n'apparaît pas que ces activités ou ces publications soient en accroissement en Autriche.

27. La Belgique a été entourée d'une publicité malencontreuse en raison des congrès internationaux accueillis par le VMO — *Vlaamse Militante Orde* — qui tire son soutien local d'un certain extrémisme flamand. En 1977, le VMO, groupement fort réduit sans appui dans les partis politiques, a organisé une grande manifestation près d'Ostende avec des cérémonies sur les tombes des collaborateurs nazis du temps de la guerre. D'éminentes délégations de tous les partis néo-fascistes d'Europe septentrionale étaient présentes, car le VMO se plaît à souligner les liens raciaux qui existent entre eux et la base «aryenne» internationale des *Waffen SS*. Le VMO et un autre groupe néo-nazi flamand, *Were Di*, se sont fait remarquer par leur appel à l'amnistie des collaborateurs, qui préoccupe leurs publications *Eecloonaar* et *Humo*. Il y a eu quelques attaques à main armée contre les juifs à Ostende et Bruxelles. En Wallonie c'est le groupe «Front de la jeunesse» qui déploie son activité et ne recule pas devant la violence. Un grand nombre des livres néo-nazis les plus notoires ont paru en Belgique à l'usage du monde francophone.

28. L'Italie est ravagée depuis quelques années par les groupes terroristes de gauche et de droite. Par certains aspects, la violence et l'antisémitisme, l'extrême gauche et l'extrême droite se distinguent difficilement. Elles aboutissent au même résultat : la mort et la mutilation de centaines de victimes innocentes, le dernier exemple étant l'insensé attentat à la bombe de la gare de Bologne. Le but qu'elles se proposent à court terme — le renversement des institutions de l'Etat démocratique — est également le même.

Le principal parti néo-fasciste d'Italie, le *Movimento Sociale Italiano* (MSI), dirigé depuis trente-trois ans par Giorgio Almirante, a fusionné avec la *Destra Nazionale* (DN) en 1973. Ce rassemblement MSI/DN avait à peu près 400 000 membres, quatorze sénateurs et trente-cinq députés. Cependant, il s'est scindé en 1977, un certain nombre de parlementaires ayant créé la *Democrazia Nazionale*, qui se prétend exempte de fascisme ou de terrorisme. Le journal *Il Borghese* lui donne son appui. Quant à Almirante, il a été contraint de rechercher un rôle «européen» comme porte-parole d'une «droite classique» et non plus comme néo-fasciste.

Le carnage provoqué le 2 août 1980 par l'explosion d'une bombe à la gare de Bologne à

the explosion of a bomb at Bologna station at holiday rush hour. The technique used and the implicit strategy bears a close resemblance to earlier actions of the extreme right in Italy, namely the explosion in Piazza Fontana in Milan in 1969 which inaugurated a series of "black terrorist" actions in the country. Moreover, the first information emanating from the competent authorities indicates the existence of a vast movement of the extreme right which does not stop short of the most murderous programmes in order to reach their objective which is to provoke the slide of Italian democracy towards a right-wing authoritarian system.

29. Spain has emerged from a long slumber as a senile corporate state into democratic activity. The Franco bureaucracy was not a fascist ideology as such; thus it is no paradox to say that the strengthening of democracy may, for a period, also lead to an increased threat from neo-fascists such as the 100 000 who attended a rally of former Falangists on the third anniversary of the death of Franco in 1978. The activities of various terrorist groups, not only cause horror but may also make the general public forget the aggression under the Franco regime. They could even give rise to a certain nostalgia for the "good old days". The police and the army, which are the particular targets of terrorists, would be among the first objects of this nostalgia. The Atocha assassination of four communist lawyers in 1977 led to arrests of neo-fascists, who are about to be brought to trial. As a gesture of support for the accused a number of young fascists invaded the campus of Madrid University in January 1979, seriously injuring a porter and a number of students. Such people would be contemptuous of the formalistic approach of Blas Pinar's *Fuerza Nueva* party. One of them, Juan Rubio Gomez, of the *Juventud Nacionalista Revolucionaria* (JNR) told the Madrid newspaper *Interviú* in May 1979 that *Fuerza Nueva* was a "reactionary faction", and that "Hitler had the right ideals — the ideal of a defence of the race". The Spanish Government has shown much dexterity and determination in gradually rebuilding democracy. The generous aid given by the democratic countries and political parties of Europe is a sign of the confidence they place in the Spanish people. Notwithstanding, any fascist manifestation cannot avoid giving rise to worries similar to those felt in Germany, Italy and Austria in the years following 1945.

30. One of the most unusual aspects of Spain is that it still provides a safe haven for the European fascists of former generations, like the Belgian Degrelle and the Frenchman Pellepoix already referred to. There exists in Barcelona the *Circulo Español de Amigos de Europa*, CEDADE, founded in 1965. Its leading luminaries include prominent Italian and German

une heure de pointe, la technique et la stratégie qu'il exprime rappellent de près les actions précédentes de l'extrême droite italienne telles que notamment l'explosion de Piazza Fontana à Milan en 1969 qui inaugura la série du terrorisme noir dans la péninsule. D'un autre côté les premiers renseignements en provenance des autorités compétentes indiquent l'existence d'un vaste mouvement d'extrême droite qui ne recule pas devant les programmes les plus meurtriers pour atteindre le but de provoquer le glissement progressif de la démocratie italienne vers un système autoritaire de droite.

29. L'Espagne est sortie du long sommeil d'un Etat corporatif sénile pour entrer dans la démocratie. La bureaucratie franquiste n'était pas vraiment une idéologie fasciste — il n'est donc pas paradoxal de dire que le renforcement de la démocratie risque pendant un temps d'aggraver la menace provenant des néo-fascistes, comme le montrent les 100 000 personnes qui ont assisté au rassemblement des anciens phalangistes au troisième anniversaire de la mort de Franco en 1978. Les activités des divers groupes terroristes, à part l'horreur qu'elles inspirent, ont tendance à faire oublier au grand public les exactions du régime franquiste et pourraient même conduire à une sorte de nostalgie vers les "good old days". Bien entendu, les forces de l'ordre et l'armée, qui sont particulièrement visées par les terroristes, sont les premières à être exposées à cette nostalgie. L'assassinat de quatre juristes communistes à Atocha en 1977 a conduit à l'arrestation de néo-fascistes qui sont sur le point de passer en jugement. Pour marquer leur appui aux accusés, un certain nombre de jeunes fascistes ont envahi le campus de l'Université de Madrid en janvier 1979, blessant grièvement un concierge et plusieurs étudiants, au mépris de l'attitude formaliste du parti *Fuerza Nueva* de Blas Pinar. L'un d'eux, Juan Rubio Gomez de la *Juventud Nacionalista Revolucionaria* (JNR), a déclaré au journal madrilène *Interviú* en mai 1979 que *Fuerza Nueva* était une « faction réactionnaire » et que « Hitler avait une juste vision: l'idéal de la défense de la race ». Le Gouvernement espagnol a fait preuve de beaucoup d'habileté et de détermination dans le rétablissement progressif d'un régime démocratique. L'aide prodiguée par les pays et les partis démocratiques d'Europe est un témoignage de la confiance qu'ils placent dans le peuple espagnol. Il ne reste pas moins vrai que toute manifestation fasciste fait naître des appréhensions comme c'était le cas en Allemagne, en Italie et en Autriche après 1945.

30. L'un des aspects les plus étranges de l'Espagne est qu'elle reste un havre de sécurité pour les fascistes européens de l'ancienne génération, comme le Belge Degrelle et le Français Pellepoix déjà mentionnés. A Barcelone, il existe un *Circulo Español de Amigos de Europa* (CEDADE), fondé en 1965. Ses chefs de file comprennent d'éminents exilés italiens et allemands et des vétérans de la

exiles, and veterans of the Blue Division. It has links with the JNR and with the guerilleros de Cristo Rey, as well as publishing many fascist tracts. There are too many victims in Europe of Nazism, fascism and the Franco era for the appearance of official tolerance of this movement to go unnoticed. From time to time evidence of its being there is instead brought forward and taken as a sign that the Spanish authorities are even taking an allegedly positive stance vis-à-vis the ideologies in question. It would be unfair to blame those who have been in German, Italian or Spanish prisons or camps for not being willing to make the fine legal or political distinctions inherent in this situation. Such a reaction on the part of the victims would be entirely comprehensible and justifiable even if one might think it lacked objectivity. This does not mean, however, that the Spanish authorities are not aware of the activities of the above-mentioned groups. On the contrary, my predecessor as Rapporteur, Mr Whitehead, was very impressed during a visit to Spain by the surveillance of extremist groups carried out by the Spanish security forces.

31. *Portugal's Constitution of 2 April 1976 states clearly: "Organisations which adopt fascist ideology shall not be permitted" (Article 46.4).*

32. *Scandinavia is too stable, too close to the memory of what Nazi rule was actually like, to be greatly endangered by neo-Nazis. In Norway the old party of Vidkun Quisling, the *Natjional Samling*, still has its former supporters in the shadows. The neo-Nazi *Norsk Front's* members threw a bomb at the May Day celebrations in Oslo, which proved easier than gaining the 3 000 signatures the party would need to participate in elections. It is now trying to take over and use an existing but dormant party, the *Norwegian Democratic Party*. In Denmark neo-Nazi activity is low. Two members of the tiny *Danish National Socialist Union* have recently been arrested for peddling material which violates the Danish penal code by expressing a "threat, insult or debasement of a group of people because of their religion, race, colour, or ethnic origin". Sweden has traditionally been a tolerant country. Now a number of small neo-fascist parties have been formed, hoping to exploit prejudice against the "black-haired ones" — Sweden's 700 000 immigrants from Southern Europe. In 1979 a school in Olofstron was vandalised by Swedish neo-Nazis, who left slogans calling for racial purity and hailing Hitler as a hero. The source of much of this propaganda appears to be a body calling itself the *Bible Researcher*, based at Taby. This year the Swedish National School Board has taken special measures to counter the growing prejudice against foreigners found in Sweden's schools.*

division *Azul*. Ce mouvement a des liens avec la JNR et avec les guerilleros de Cristo Rey et il publie de nombreux tracts fascistes. Il y a trop de victimes du nazisme, du fascisme et du franquisme dans les divers pays d'Europe pour que l'apparence de tolérance de ce mouvement ne soit pas périodiquement mise en évidence et imputée aux autorités espagnoles comme preuve d'une prétendue tolérance des idéologies fascistes. Il serait injuste de reprocher à ceux qui ont connu les prisons et camps allemands, italiens ou seulement espagnols de ne pas faire les distinctions subtiles d'ordre juridique ou politique que comporte cette situation. Une telle réaction de la part des victimes serait tout à fait compréhensible et justifiable, bien que l'on puisse penser qu'elle manque d'objectivité. En effet ceci ne veut pas dire, par contre, que les autorités espagnoles ne soient pas au courant des activités des groupes visés ci-dessus. Au contraire, mon prédécesseur comme rapporteur, M. Whitehead, a été très impressionné lors d'une visite sur place de la surveillance des groupes extrémistes par les forces de sécurité espagnoles.

31. La Constitution du Portugal du 2 avril 1976 s'exprime clairement: «Sont interdites... les organisations qui se réclament de l'idéologie fasciste» (article 46.4).

32. La Scandinavie est trop stable et elle a gardé trop vivant le souvenir de l'hégémonie nazie pour être vraiment mise en péril par les néo-nazis. En Norvège, le vieux parti de Vidkun Quisling, le *Natjional Samling*, conserve ses anciens partisans dans l'ombre. Les membres néo-nazis du *Norsk Front* ont trouvé plus facile de lancer une bombe à Oslo le jour du 1^{er} mai que de recueillir les 3 000 signatures nécessaires pour la participation du parti aux élections. Ce mouvement s'efforce maintenant de reprendre et d'utiliser un parti qui existe mais qui sommeille, le parti démocrate norvégien. Au Danemark, l'activité néo-nazie est faible. Deux membres de la petite Union nationale-socialiste danoise ont récemment été arrêtés pour avoir colporté une documentation qui est contraire au code pénal danois parce qu'il «menace, insulte ou avilit un groupe de personnes en raison de leur religion, de leur race, de leur couleur ou de leur origine ethnique». Traditionnellement, la Suède est un pays tolérant. Un certain nombre de petits partis néo-fascistes se sont constitués dans l'espoir d'exploiter le préjugé contre les «basanés», c'est-à-dire les 700 000 immigrants d'Europe méridionale. En 1979, une école d'Olofstron a été mise à sac par des néo-nazis suédois qui ont laissé des slogans demandant la pureté de la race et désignant Hitler comme un héros. En grande partie, cette propagande semble provenir d'un mouvement qui s'intitule *Bible Researcher* et qui a son siège à Taby. Cette année, le ministère suédois des Ecoles a pris des mesures pour lutter contre l'aggravation des préjugés dont les étrangers sont victimes dans les écoles suédoises.

33. Britain has had a series of fascist-style movements over the years, dating back to Sir Oswald Mosley's pre-war British Union of Fascists. Today there are a proliferation of such groups, none stable, few numerous, with the exception of the party which has been, for some time, one of Europe's largest active fascist groupings — the National Front.

34. Whilst the NPD in West Germany and MSI in Italy have had more electoral success in the past than has the National Front in Britain, the latter provides a valuable object lesson in the projection of prejudice once it finds a new target. Anti-Semitism is not a particularly virulent phenomenon in modern Europe. The State of Israel is widely, some would even say uncritically, admired. National Jewish minorities face serious harassment in the Soviet Union and certain Middle East countries, but not in Western Europe. Therefore, a fascist party which needs a scapegoat, an alien minority whom it can allege puts the state in peril, must look elsewhere. With a background of mass immigration into Britain, on a larger scale than that of Jewish refugees in the early part of the century, and a deepening economic recession, the National Front has tried to stir up feeling against Britain's coloured minority. Its leaders, John Tyndall and Martin Webster, and its president, Andrew Fountaine, are all old time Jew-baiters. Fountaine was dismissed as a Conservative parliamentary candidate in the 1940s for anti-Jewish speeches, but he is "respectable" compared to Tyndall and Webster. Tyndall is a veteran anti-Semite, who first came to prominence with a fellow racist, Colin Jordan, as the organiser of the British National Socialists, decked out in full Nazi regalia. (His earliest publications are entitled *The Jew in Art* and *The Authoritarian State*.) He later led the Greater Britain Movement, a small assembly of fascist cranks, into the coalition known as the National Front, which he came to dominate, as he still does. His principal lieutenant, Webster, entitled his first foray into print *Why I am a Nazi*.

35. The National Front has never become a potent force in British politics, and under the British first-past-the-post electoral system it has never done better than third place in parliamentary elections. But its meetings have been attended by violence, as have the marches and counter-marches which are now, as in the 1930s, part of the standard practice of neo-fascist politics. The tension has come from its exploitation of fears in the white community about West Indian and Asian immigrants, who have moved into the urban centres of Britain. Crudely inflammatory posters

33. C'est toute une série de mouvements de type fasciste que la Grande-Bretagne connaît depuis la *British Union of Fascists* dirigée avant la guerre par Sir Oswald Mosley. Aujourd'hui, il y a eu prolifération de ces mouvements. Aucun d'eux n'est stable et rares sont ceux qui ont de nombreux adhérents, à l'exception du parti qui pendant quelque temps a été l'un des plus grands groupes fascistes d'Europe: le *National Front*.

34. Il est certain que le NPD en Allemagne occidentale et le MSI en Italie ont obtenu de meilleurs résultats électoraux que le *National Front* en Grande-Bretagne, mais celui-ci illustre bien quelle peut être la projection d'un préjugé une fois qu'il a trouvé un objectif nouveau. L'antisémitisme n'est pas un phénomène particulièrement virulent dans l'Europe d'aujourd'hui. L'Etat d'Israël est largement, certains diraient aveuglément, admiré. Les minorités juives font face à de graves brimades en Union Soviétique et dans certains pays du Proche-Orient, mais non pas en Europe occidentale. Par conséquent un parti fasciste qui a besoin d'un bouc émissaire, d'une minorité étrangère à laquelle il puisse reprocher de mettre l'Etat en péril, doit chercher ailleurs. Exploitant l'arrivée massive d'immigrants en Grande-Bretagne qui dépasse celle des réfugiés juifs au début du siècle, et l'aggravation de la crise économique, le *National Front* s'est efforcé de dresser la population contre la minorité de couleur en Grande-Bretagne. Ses chefs John Tyndall et Martin Webster, et son Président Andrew Fountaine, sont tous des pourfendeurs de juifs à l'ancienne mode. Fountaine a perdu le droit de présenter sa candidature comme député conservateur dans les années 40 à cause de ses discours anti-juifs, mais il est « respectable » par comparaison avec Tyndall et Webster. Tyndall est un antisémite invétéré qui s'est fait connaître avec un racisme comme lui, Colin Jordan, comme l'organisateur des nationaux-socialistes britanniques, couvert de tous les insignes nazis (ses premières publications étaient intitulées *The Jew in Art* et *The Authoritarian State*). Plus tard, il a entraîné le *Greater Britain Movement*, petit rassemblement de maniaques fascistes, dans la coalition connue sous le nom de *National Front*, qu'il a fini par dominer et qu'il domine encore. Son principal lieutenant Webster, a intitulé *Why I am a Nazi* le premier écrit qu'il a commis.

35. Le *National Front* n'est jamais devenu puissant dans la politique britannique et il n'a jamais pu mieux faire, dans le système électoral britannique, que d'obtenir la troisième place aux élections parlementaires, mais ses réunions ont été accompagnées de violence ainsi que ses marches et contremarches qui maintenant comme dans les années 30 font partie des habitudes de la politique néo-fasciste. Il a réussi à créer une tension en exploitant les craintes de la communauté blanche face à l'immigration antillaise et asiatique qui a pénétré dans les centres urbains de Grande-Breta-

showing a distorted negroid face dripping down a Union Jack flag, as bad as the worst that Julius Streicher could do, have not as yet resulted in prosecution under Britain's race relations laws. Other breakaway groups have been prosecuted, Mr Kingsley Read of the National Party for a speech after the murder of an Asian immigrant, in which he said, "One down, one million to go", and Mr Robert Relf — an ally of Colin Jordan — for a leaflet which said *inter alia*: "You can take niggers out of the jungle, but you can't take the jungle out of niggers." (Read was acquitted, Relf convicted.) The Front has probably been given some additional respectability by the fact that other politicians, who would regard it and its authoritarian image with horror, use inflammatory and hysterical language on the race issue themselves. For example Mr Enoch Powell, who began the breach with his former party on the issue of race, has said: "People hear cries of anguish from those ... who already saw their towns being changed, their native places being turned into foreign lands, and themselves displaced as if by a systematic colonisation ... when he looks into the eyes of Asia the Englishman comes face to face with those who will dispute with him the possession of his native land." In a country with heavy unemployment, an economic recession and considerable culture shock, such talk is explosive.

36. In fact the National Front did disastrously badly in the British general elections of 1974 and 1979, failing to break through the 12% barrier which a candidate must achieve to save his financial deposit in even a single constituency. Subsequent campaigns over the admission of Vietnamese refugees have also flopped. It seems that after a brief period when the special economic and social circumstances of Britain might produce a mass fascist party on a larger scale than the NPD or MSI have ever been, the National Front will splinter into various racist bodies. An increase in activity recently by the paramilitary underground group Column 88 (8 is the eighth letter, H, therefore HH or Heil Hitler) suggests that some Fascists are no longer prepared to play at being constitutional. Column 88 has just been linked with a series of bomb attacks in Britain, aimed at left-wing bookshops and political offices, which goes far beyond the movement's previous play-acting.

37. This kind of activity, to be sure, might seem insignificant if there were not serious reasons for believing, as we have shown above, that the lack of radicalisation corresponds to an evolution at European level.

We should remember also that the violence of the pseudo left plays straight into the hands of the authoritarian right, so that in a way the two come to need each other. Wherever

gne. Les affiches vengeresses montrant un visage négroïde déformé et dégoulinant sur l'Union Jack, comme les pires inventions de Julius Streicher autrefois, n'ont pas encore entraîné de poursuites en vertu de la législation britannique sur les relations raciales. Des isolés, cependant, ont été poursuivis, M. Kingsley Read du *National Party* pour un discours prononcé après l'assassinat d'un immigrant asiatique, dans lequel il déclarait: « Un de tombé, un million de partis », et M. Robert Relf, un allié de Colin Jordan, pour une brochure où il déclarait notamment: « Vous pouvez sortir les nègres de la jungle, mais vous ne pouvez pas sortir la jungle du nègre. » (Read acquitté, Relf condamné.) Le Front a sans doute acquis une certaine respectabilité du fait que des politiciens, qui regardaient ce mouvement et sa réputation d'autoritarisme avec horreur, emploient eux-mêmes un langage enflammé et hystérique sur la question raciale. C'est ainsi que M. Enoch Powell, qui a rompu avec son parti sur la question raciale, a déclaré: « Le peuple entend les cris d'angoisse de ceux... qui ont déjà vu leurs villes changées, le lieu de leur naissance transformé en pays étranger et eux-mêmes déplacés comme par une colonisation systématique... Lorsqu'il regarde l'Asie dans les yeux, l'Anglais fait face à ceux qui lui disputeront la possession de son pays natal. » Dans un pays de chômage, de crise économique et de forte tradition culturelle, un tel langage est explosif.

36. En réalité, le *National Front* a obtenu un résultat désastreux aux élections générales britanniques de 1974 et de 1979 puisqu'il n'a réussi dans aucune circonscription à franchir la barre des 12 % qu'un candidat doit dépasser pour récupérer son dépôt financier. Les campagnes qui ont ensuite été orchestrées contre l'arrivée de réfugiés vietnamiens ont aussi échoué. Il semble que, après une brève période pendant laquelle les circonstances économiques et sociales ont pu produire en Grande-Bretagne un parti fasciste de masse sur une échelle plus grande même que le NPD ou le MSI, le *National Front* se fractionne en plusieurs groupes racistes. L'augmentation récente des activités du groupe souterrain paramilitaire *Column 88* (8 est la huitième lettre, H, c'est-à-dire HH ou *Heil Hitler*) montre que certains fascistes ne sont plus disposés à jouer le jeu constitutionnel. *Column 88* vient d'être mis en cause dans une série d'attentats à la bombe en Grande-Bretagne visant des magasins et des bureaux politiques de gauche et dépassant de beaucoup les jeux précédents du mouvement.

37. Ce type d'activités pourrait paraître négligeable s'il n'y avait des raisons sérieuses d'admettre que la vague de radicalisation constatée plus haut répond à une évolution sur le plan européen.

Il faut aussi se rappeler que la violence de la prétendue gauche sert la droite autoritaire, à telle enseigne qu'en un sens l'une a besoin de l'autre. Lorsque la terreur s'en prend à la démo-

democracy is challenged on the streets by terror there are those who will use this excuse to frighten their fellow citizens into calling for "the man on the white horse" — the authoritarian answer. In the coming economic recession, and with the kind of identifiable scapegoat which racial minorities represent, these groups could grow from a small blister on the skin of democracy to an infection of the whole body.

38. The neo-fascists have come to understand the value of international ties. The more disreputable rally at VMO gatherings in Belgium. Leaders like Jordan and Manfred Roeder make the pilgrimage to the United States for finance and support from the States Rights Party and the American Nazis of Lincoln, Nebraska, led by the German-American Gerry Lauck. From the southern strongholds of the Spanish CEDADE organisation to the headquarters of the Swedish neo-Nazis in Malmö, there is somebody to play host to arrange the international comings and goings. The more "respectable" leaders of the extreme right also try to stage meetings with a "European Right" in Paris as guests of Mr Tixier-Vignancourt. Their aim is to escape from the embrace of nostalgic ex-Nazis, and make overtures to the legitimate right in Europe.

39. The Belgian fascist, Léon Degrelle, condemned to death in his own country after the war but given safe haven in Spain, has just published a book calling on the European Right to accept the wartime fascists as honourable allies. (The book includes an Open Letter to the Pope, telling that distinguished Polish anti-fascist that there were no extermination chambers at Auschwitz!) The neo-fascists in Spain, now led by Blas Pinar, make up for their lack of political influence at home by playing host to the assorted ragamuffins of the right-wing fringe throughout Europe. The Fuerza Nueva played host to the French parti des Forces nouvelles and the Italian MSI at a mass rally on the third anniversary of the death of Franco which drew a crowd of around 200 000. Signor Almirante, of the MSI, like the veteran British fascist Sir Oswald Mosley, tries to present himself as no more than a "good European" and these meetings of neo-fascists as no more than a meeting of like minds. All such overtures have in fact been rebuffed by the Christian Democratic and Conservative parties of Western Europe.

Conclusion

40. It would be foolish, and premature, to say that a major revival of fascist or racist ideology was taking place in Europe today. Some observers

cratie dans les rues, il y a des hommes qui en tirent argument pour effrayer leurs concitoyens et demander « un homme providentiel », c'est-à-dire la manière autoritaire. Avec la crise économique qui est imminente, les minorités raciales représentent un bouc émissaire identifiable et les groupes terroristes, qui d'abord ne sont qu'un petit bouton sur la peau de la démocratie, risquent d'infecter le corps tout entier.

38. Les néo-fascistes ont maintenant compris l'intérêt des liens internationaux. Les groupes les plus mal réputés se rendent aux réunions du VMO en Belgique. Des chefs comme Jordan et Manfred Roeder font le pèlerinage aux États-Unis pour obtenir un financement et un soutien du *States Rights Party* et des *American Nazis of Lincoln*, Nebraska, dirigés par le Germano-américain Gerry Lauck. Des forteresses méridionales de l'organisation CEDADE espagnole jusqu'au siège des néo-nazis suédois à Malmö, on trouve des gens pour accueillir et organiser les allées et venues internationales. Les chefs les plus « respectables » de l'extrême droite cherchent aussi à donner à leurs réunions une orientation « européenne », comme en témoigne la récente réunion de l'eurodroite à Paris à laquelle M. Tixier-Vignancourt a assisté. Leur but est d'échapper à l'étreinte des anciens nazis nostalgiques et de s'ouvrir à la droite légitime en Europe.

39. Le fasciste belge Léon Degrelle, condamné à mort dans son pays après la guerre, mais bénéficiant de l'asile en Espagne, vient de faire paraître un livre appelant la droite européenne à accepter les fascistes de la guerre comme des alliés honorables (ce livre comprend une lettre ouverte au pape indiquant à cet éminent antifasciste polonais qu'il n'y avait pas eu de chambres d'extermination à Auschwitz!). Les néo-fascistes d'Espagne, maintenant conduits par Blas Pinar, compensent leur manque d'influence politique chez eux en accueillant la bande de garnements de la droite de toute l'Europe. *Fuerza Nueva* a accueilli le parti français des Forces nouvelles et le MSI italien au cours d'un rassemblement de masse à l'occasion du troisième anniversaire de la mort de Franco qui a rassemblé une foule d'environ 200 000 personnes. M. Almirante, du MSI, comme le vétérinaire fasciste britannique Sir Oswald Mosley, s'efforce de se présenter tout simplement comme un « bon Européen » et de faire passer les réunions de néo-fascistes pour de simples réunions de gens appartenant à la même famille d'esprit. Néanmoins, toutes ces ouvertures ont été rejetées par les partis chrétiens-démocrates et conservateurs d'Europe occidentale.

Conclusion

40. Il serait naïf et prématuré d'affirmer qu'une grande recrudescence de l'idéologie fasciste ou raciste est en cours dans l'Europe d'au-

believe that the real potential for neo-fascism may come at a certain stage of advance in the developing countries. In Western Europe, to which your Rapporteur has confined himself, the appropriate overall verdict might be left with Mr Paul M. Hayes, writing in the journal of the Institute of Jewish Affairs (June 1979): "Prospects for a revival of fascism in the West seem ... rather poor ... It is conceivable that this (Western) restlessness could be transported into a new authoritarianism of a fascist type, and no Western country should dismiss this possibility out of hand. This said, however, fascism still seems an unlikely starter as the new solution to the problems of Western democracy." Your Rapporteur agrees with that.

41. However, there have been enough examples of recent fascist and racist outbursts for us to say that, whilst they do not yet present a significant threat in themselves, they do warn us that the point where indifference and toleration could be the response has already passed. Where there is violence, as there has been at recent gatherings of both the National Front and the NPD, our member states should re-examine how far the classical freedom of assembly is compatible with the freedom to intimidate others, or to provoke violence. Where racist literature circulates freely, using grotesque slurs and threats on minorities, we must ask what price we must pay for this freedom, too. Most of all, our resolution should call upon all the member states of the Council to intensify their efforts at eradicating the new fascism through education, so that the new generation shall learn the consequences of these vile creeds. It shames us all that it was left to a commercial television series to do this in Europe.

42. There is no certain method of determining when a group of people sharing a more or less far-fetched fascist or racist ideology is likely to present a real danger to society.

In studying the history of the fascist and Nazi movements in the 1920s, it is difficult to grasp the hard reality of those times, leaving in their wake some sixty million dead.

There is no precise scientific theory on the conditions favourable to the rise of a fascist movement of any significance. Neither the ingredients nor the dosage of the necessary circumstances are known.

The prevention of fascism or Nazism cannot be entrusted to sociologists or political scientists, but should remain the responsibility of all citizens and, in particular, politicians.

43. The best means of fighting a resurgence of fascism and racism is the perfecting of democracy in the fullest sense of the word.

aujourd'hui. Quelques observateurs pensent que les chances réelles du néo-fascisme se présenteront peut-être à un certain stade d'avancement dans les pays en développement. En Europe occidentale, à laquelle votre rapporteur a borné son propos, il est peut-être bon de laisser le dernier mot à M. Paul M. Hayes, qui dans la revue de l'*Institute of Jewish Affairs* (juin 1979) écrit: «Les perspectives de recrudescence du fascisme en Occident apparaissent... assez faibles... On peut imaginer que cette agitation (occidentale) puisse aboutir à un nouvel autoritarisme de type fasciste et aucun pays d'Occident ne peut écarter cette éventualité. Ceci dit, il est peu probable que le fascisme nous mette sur la voie de la solution au problème de la démocratie occidentale. » J'en suis d'accord.

41. Néanmoins, il y a assez d'exemples d'éclats récents fascistes et racistes pour penser que, bien qu'ils ne représentent pas une menace importante en eux-mêmes, ils nous font voir que l'indifférence et la tolérance sont peut-être des réactions déjà dépassées. Lorsqu'il y a violence, comme ce fut le cas à de récentes réunions du *National Front* et du NPD, nos Etats membres doivent examiner dans quelle mesure la liberté classique de réunion est compatible avec la liberté d'intimider les autres ou de provoquer la violence. Lorsque les écrits racistes circulent librement en calomniant grossièrement et en menaçant les minorités, nous devons nous demander quel doit être le prix de cette liberté. Surtout, notre résolution doit appeler les Etats membres du Conseil à intensifier leurs efforts pour extirper le nouveau fascisme dans l'enseignement, de façon que la nouvelle génération connaisse les conséquences de ces croyances abjectes. Nous sommes tous honteux qu'il ait fallu un feuilleton de la télévision commerciale pour obtenir ce résultat en Europe.

42. Il n'y a pas de diagnostic sûr pour savoir à partir de quel moment un groupe à idéologie fasciste ou raciste plus ou moins fantaisiste est susceptible de devenir un danger réel.

A relire l'histoire et surtout l'origine des mouvements fascistes et nazis des années 20, on éprouve encore aujourd'hui des difficultés à comprendre ce qui fut pourtant une dure réalité, se soldant par quelque soixante millions de morts.

Il n'y a pas de théorie scientifique précise sur les conditions pouvant donner naissance à un mouvement fasciste susceptible d'exercer une influence réelle dans une société. On ne connaît pas tous les ingrédients, ni surtout le dosage.

La prévention ne peut être la mission des sociologues ou des politologues. C'est la responsabilité de tous les citoyens et surtout des hommes politiques et des gouvernements.

43. La lutte contre la recrudescence du fascisme et du racisme c'est le perfectionnement de la démocratie dans le sens le plus complet du mot.

We must go beyond the classical forms of political democracy and extend the practice of democratic principles to new fields.

Above all we must improve the working of democratic institutions, increase citizen participation and fight against public lack of interest in political questions.

We need more social justice and more economic security. A man who is unsure of his means of his support or of keeping his job, the man who is afraid of the neighbour with whom he is competing for his livelihood thinks badly, judges badly and chooses badly. Such a man is likely to follow a demagogue who flatters his instincts and promises the protection of a leader sent by providence.

44. A flexible and rapid adaptation of institutions to the new circumstances avoids tension and forestalls disputes which arise from the divorce between formal legality and the new realities.

If all political parties follow a policy of seeking the greatest possible convergence of opinions, just solutions, active social solidarity and access for all to culture, education and justice to the greatest possible extent, this would be the best means of fighting fascism and forestalling racist theories and practices.

45. The democratic governments of countries which have experienced fascism normally react rapidly and in the right manner.

The banning of fascist parties, publications and manifestations may dispel the worries of some people, but they are not normally adequate tools in the struggle against the political aspects of fascism. The democratic parties above all have to stand united and resist the temptation to "make theirs" certain slogans in the hope of winning the hearts of certain voters.

The fundamental errors of Gioletti and von Papen remind us of the futility of trying to work together with fascists.

Similarly, the slogan of social fascism perfectly illustrates the narrow-mindedness of those who later on had to pay the highest price for Nazism's victory. The political parties thus have to stand united in the defence of democracy and the right of minorities.

46. A permanent vigilance is necessary since there is no certain method of determining the conditions under which a fascist movement may develop and succeed, and also considering the unspeakable horrors to which the world was subjected under the hands of Mussolini and Hitler. Rather than inveighing against the sensitive reac-

Il faut dépasser les formes classiques de démocratie politique et incorporer de nouveaux domaines dans la pratique des principes démocratiques.

Il faut surtout améliorer le fonctionnement des institutions démocratiques, intensifier la participation du citoyen, lutter contre la désaffection du public pour les problèmes politiques.

Il faudra plus de justice sociale et plus de sécurité économique. L'homme qui a peur pour sa subsistance, son emploi, l'homme qui a peur du voisin avec lequel il est en compétition pour son existence, cet homme-là raisonne mal, juge mal et choisit mal. Cet homme-là risque de suivre le démagogue qui flatte ses instincts et promet la protection de l'homme providentiel.

44. L'adaptation souple et rapide des institutions aux données nouvelles évite les tensions et prévient les contestations de la légalité formelle en divorce avec les réalités nouvelles.

La pratique par tous les partis politiques d'une politique vouée à la recherche d'un maximum de convergences et de solutions justes, la pratique d'une solidarité sociale active et l'accès de tous à la culture, à l'enseignement, à la justice dans la mesure des possibilités sont les meilleurs moyens pour lutter contre le fascisme et pour prévenir les théories et les pratiques racistes.

45. Les gouvernements démocratiques des pays ayant connu des régimes fascistes réagissent en général de la manière et avec la rapidité voulues.

Les interdictions légales de partis, de publications et de manifestations fascistes, si elles sont de nature à apaiser certains, apparaissent cependant d'une manière générale peu adéquates pour lutter contre des phénomènes politiques. Il importe avant tout que les partis politiques démocratiques fassent front et résistent à la tentation de «récupérer» certains slogans dans l'espoir de récupérer quelques électeurs.

Les erreurs monumentales de Gioletti et de von Papen sont là pour nous rappeler l'inanité des tentations de composer avec les fascistes.

De même que le slogan du social-fascisme illustre parfaitement l'état d'esprit borné de ceux qui devaient par la suite payer le plus lourd tribut au nazisme. Il faut donc que les partis politiques soient unis dans la défense de la démocratie et de l'égalité des droits des minorités.

46. Du fait qu'il n'y a pas de méthode sûre pour déterminer les conditions d'éclosion et de réussite d'un mouvement fasciste, et eu égard aux indicibles malheurs que le monde a subis de la main des Mussolini et Hitler, une vigilance permanente est nécessaire. Plutôt que d'incriminer les réactions épidermiques des défenseurs de la

tions of the defenders of democracy, politicians should speak more forcefully against any resurgence and manifestation of fascist theories or actions.

47. There is no reason to fear that the fascist movements will be able to play anything but a marginal role in the near future. However, it should not be forgotten that authoritarian and fascist reactions remain possible when serious economic and social problems are combined with a conviction on the part of the general public that democracy is not able to resolve such problems. Social inequality, lack of education, unemployment, unfair sharing of expenses in society and a general feeling of insecurity may not be the only causes behind the development and spread of fascist ideologies. They are, however, certainly contributing factors, in particular if international politics lead to irrational reactions of fear, humiliation or revenge.

Greater social justice, better education and an international co-operation respecting the rights of nations do not only have a value in themselves, but are also the best means of preventing fascism and racism from coming to the fore.

48. Finally your Rapporteur wishes to mention that the European Youth Centre, which is one of the most original and effective organs of the Council of Europe, has launched an initiative of the highest interest from the point of view of investigating certain themes treated in this report. This initiative consists in convening a Conference on Intolerance in Europe which will take place in Strasbourg from 9 to 11 December 1980. The conference will deal with the problem from three different points of view:

First, it will attempt to establish the situation with regard to the differences — of a racial, religious, ethnic, cultural, sexual or political order — which exist in Europe and to answer the question as to whether these differences are respected or give rise to discriminatory measures.

The second approach concerns the protection of human rights within a Europe undergoing rapid change.

Thirdly, the conference will examine the essential problem of defining the fundamental criteria which education for tolerance should satisfy. The acceptances which the organisers have received from distinguished experts and professors from several countries confirm the interest and importance of this initiative. There is reason, in your Rapporteur's opinion, to congratulate the European Youth Centre for organising this conference in the draft resolution.

démocratie, les hommes politiques doivent dénoncer toute recrudescence et toute manifestation de théories ou de réactions fascistes.

47. Il n'y a pas de raison valable de craindre que les mouvements fascistes puissent sortir demain de leur rôle marginal. Mais il ne faut pas oublier que les réactions autoritaires et fascistes restent possibles lorsqu'aux problèmes économiques et sociaux graves vient s'ajouter la conviction erronée du peuple que la démocratie n'est pas en mesure de les résoudre. Les inégalités sociales, le manque d'instruction, le chômage, les injustices dans la répartition des charges et le sentiment d'insécurité, s'ils ne sont pas les causes uniques sont cependant parmi celles qui favorisent l'éclosion et la prolifération des idéologies fascistes — surtout si des questions de politique internationale provoquent des réactions irrationnelles de peur, d'humiliation ou de vengeance.

Une plus grande justice sociale, une meilleure éducation et une coopération internationale respectueuse des droits des peuples sont, outre leur valeur intrinsèque propre, les meilleurs moyens pour prévenir le fascisme et le racisme.

48. Comme dernier point votre rapporteur désire mentionner que le Centre européen de la jeunesse qui constitue l'un des organismes les plus originaux et efficaces du Conseil de l'Europe a entrepris une initiative du plus haut intérêt pour l'approfondissement de certains thèmes qui sont traités dans le présent rapport. Il s'agit de la convocation d'une conférence sur l'intolérance en Europe qui aura lieu à Strasbourg du 9 au 11 décembre 1980. La conférence traitera les problèmes sous trois différents points de vue:

En premier lieu, elle essayera de faire le point sur les différences — d'ordre racial, ethnique, culturel, sexuel, politique — existant en Europe et de donner réponse à la question de savoir si ces différences sont respectées ou bien si elles donnent lieu à des mesures de discrimination.

La deuxième approche concerne la protection des droits de l'homme au sein d'une Europe qui est en train de subir des changements rapides.

En troisième lieu la conférence portera sur le problème essentiel de définir les critères fondamentaux auxquels devrait répondre l'éducation à la tolérance. Les adhésions qui sont parvenues aux organisateurs de la part de professeurs éminents de plusieurs pays confirment l'intérêt et l'importance de cette initiative. Il y a lieu, de l'avis de votre rapporteur, de féliciter dans le projet de résolution le Centre européen de la jeunesse pour la convocation de cette conférence.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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PARLIAMENTARY ASSEMBLY

THIRTY-SIXTH ORDINARY SESSION

(First part)

OFFICIAL REPORT

Seventh sitting

Thursday 10 May 1984 at 3 pm

In this report:

1. Speeches in English are reported in full.
2. Speeches in other languages are summarised.
3. Speeches in German and Italian are reproduced in full in a separate document.

Corrections should be handed in at Room F 3142 not later than 24 hours after the report has been circulated.

The contents page for this sitting is given at the end of the verbatim report.

The sitting was opened at 3.03 pm with Mr Ahrens, President of the Assembly, in the Chair.

1. OPENING OF THE SITTING

The PRESIDENT.- The sitting is open.

2. MINUTES OF PROCEEDINGS

The PRESIDENT.- The Minutes of Proceedings of the last sitting have not yet been distributed. They will be considered at the next sitting of the Assembly.

3. ATTENDANCE REGISTER

The PRESIDENT.- The names of those Substitutes present at the sitting, of which notice has been given to the President, will be published with the list of Representatives appended to the Minutes of Proceedings.

4. WRITTEN DECLARATION

The PRESIDENT.- A written declaration on the Olympic Games has been tabled (Doc. 5224) which has been signed by 15 members.

Any Representative or Substitute may add his signature to this written declaration in the Table Office, Room 1079. If any names are added, the declaration will be distributed again at the beginning of the next part-session under Rule 48 (3).

5. SITUATION IN TURKEY

The PRESIDENT.- The first item on the orders of the day is the vote on the draft resolution on the situation in Turkey contained in Doc. 5208 and amendments. The debate was concluded this morning. The committee has presented a draft resolution.

I should like to draw your attention to the fact that in the French text of the draft resolution on page iii, the last paragraph 17 should be renumbered 18 and on page iv, paragraph 18 should be renumbered 19. Twelve amendments and one sub-amendment have been tabled.

We shall vote on them in the order in which they relate to the text, as follows: Nos. 7, 8, 6, 9, 1, 10, 11, 2, 12, 3, 4 (sub-amendment No. 1), 4, 5. If the sub-amendment to Amendment No. 4 is adopted, No. 4 falls.

We start with Amendment No. 7 in the draft resolution, replace paragraph 3 by the following:

"Considering that the timetable of liberalisation drawn up by the previous military government has been formally respected".

Mr CARDIA (Portugal), moving the amendment, said that the purpose of the amendment was to avoid an inaccurate use of the word "democracy".

Mr CAVALIERE (Italy) speaking against the amendment, said that the text of the draft resolution represented a hard won and careful compromise. Any amendment would destroy that delicate balance. The amendment sought to deny the possibility that a part democracy could exist.

Mr STEINER (Austria) (Rapporteur of the Political Affairs Committee) said that the committee was not in favour of the amendment.

The amendment was not adopted.

The PRESIDENT.- The next amendment to be considered is in the draft resolution, paragraph 4, replace the words "limits its democratic character" by the following:

"compromised their democratic character".

Mr DREYFUS-SCHMIDT (France), moving the amendment, said that he could not accept the implication that all amendments were out of order because the draft resolution was a package deal. The Turkish Constitution had not only limited but compromised the democratic character of the elections. All previous office holders in the democratically-elected governments were debarred.

Mr INAN (Turkey), in opposing the amendment, insisted that the elections of 6 November were democratic. Not all senators had been debarred and he was living proof.

The amendment was not adopted.

The PRESIDENT.- That is followed by Amendment No. 6, in the draft resolution, paragraph 5, replace the words "Welcoming the condition", by the following:

"Noting the less bad conditions".

Mr DREYFUS-SCHMIDT (France), moving the amendment, listed the categories who had been debarred from election. At the time of the municipal elections 55 provinces had been declared in a state of siege. Only six parties had been allowed to stand. The Council of Europe could not welcome the municipal elections as democratic for they marked only a slight improvement.

Mr STEINER (Austria) (Rapporteur of the Political Affairs Committee), said that the Assembly should welcome any step towards full democratisation. The committee did not accept the amendment.

The amendment was not adopted.

The PRESIDENT.- Now we come to Amendment No. 9, in the draft resolution, paragraph 7, delete the word "full" before "restoration of democracy".

Mr CARDIA (Portugal), moving the amendment, said that those who felt that some re-establishment of democracy in Turkey had taken place should vote against the amendment and vice versa.

Mr ELMQUIST (Denmark) (Chairman of the Legal Affairs Committee). - The committee has not had the chance to consider the amendment, but the chairmen and rapporteurs of both committees have stressed that democracy is not black or white but an evolution. I therefore support Mr Steiner's original proposal and ask the Assembly to vote against the amendment.

Mr STEINER (Austria) (Rapporteur of the Political Affairs Committee) said that the committee did not accept Amendment No. 9.

The amendment was not adopted.

The PRESIDENT. - That is followed by Amendment No. 1 in the draft resolution, paragraph 13, after the words "their lawyers" insert the following words:

"before the military courts and in particular".

Mr DREYFUS-SCHMIDT (France), moving the amendment, said that everybody was worried by the serious restrictions on the right of defence and the access of lawyers to clients. The amendment did not refer only to the mass trials.

Mr STEINER (Austria) (Rapporteur of the Political Affairs Committee) said that the committee had expressly separated the mass trials from the military courts and the committee opposed the amendment.

The amendment was not adopted.

The PRESIDENT. - Next, we are to consider Amendment No. 10 in the draft resolution, paragraph 16,

- i. replace the word "democratisation" by "liberalisation";
- ii. delete the word "full" before "compatibility".

Mr CARDIA (Portugal), moving the amendment, said that the word "liberalisation" would imply the process of democratisation and was therefore preferable. He withdrew the second part of the amendment.

Mr BLENK (Austria) said that the two parts of the amendment were not connected. In view of the constitution of the Council of Europe, it was better to talk about democratisation than liberalisation.

Mr STEINER (Austria) (Rapporteur of the Political Affairs Committee) said that the committee had voted against the amendment.

The amendment was not adopted.

The PRESIDENT. - We are to take next Amendment No. 11, in the draft resolution, paragraph 17 (A), to delete the word "democratic" before "normalisation".

"by putting an end to the infliction of hardship on political refugees in various ways such as stripping them of their citizenship, confiscating their assets in Turkey, and refusing passports to their families in order to prevent their unification;"

Mr MILLER (United Kingdom).- Paragraph 17 in general seems to be the very crux of the debate among ourselves about Turkey's continued membership of the Council of Europe. It urges the Turkish authorities to bear in mind the requirements of the Council of Europe's Statute and the European Convention on Human Rights. Thus the amendments are a catalogue of what is wrong with Turkey. What could be a better start to putting into effect the human rights improvements that we want and the improvements in conditions for the people and the welcoming back of Turkey into this committee of nations than putting an end to the infliction of hardship on political refugees?

I do not know whether, to save time, I should refer to the other amendment, which is about the Kurdish people. Do you, Mr President, want them taken separately?

The PRESIDENT said that only Amendment No. 3 was being taken.

Mr STEINER (Austria), Rapporteur of the Political Affairs Committee, said that the committee was not in favour of the amendment.

The amendment was adopted.

Mr FREESON (United Kingdom).- On a point of order, Mr President. Would it not be helpful if, on each occasion, the numbers of votes on amendments were announced so that we knew straight away what the figures were?

The PRESIDENT said it was not the practice of the Assembly to announce voting numbers except when a roll-call vote took place.

The PRESIDENT.- We come next to Amendment No. 4 in the draft resolution, at the end of paragraph 17 B, to insert the following new sub-paragraph:

"by recognising the right of the Kurdish people to be treated humanely and to exercise and develop their language and culture;"

Mr MILLER (United Kingdom).- In recognition of the small modicum of success that we have had this afternoon, may I take it that the request in Amendment No. 4 is subsumed by the success that we had on Amendment No. 3? Since more rights are being given to a very large number of people in Turkey, will they extend to the 12 million Kurdish people? I am talking not about separatist movements but the right to be treated humanely and to exercise and develop one's own language and culture.

The PRESIDENT.- I call Mr Steiner to deal with Sub-Amendment No. 1, to Amendment No. 4, replace Amendment No. 4 by the following text:

"In the draft resolution, paragraph 17 A, sub-paragraph iv, after the words 'political parties', insert the following 'all rights of the minorities'.

Mr STEINER (Austria), Rapporteur of the Political Affairs Committee, moved the sub-amendment. Its wording was preferable to that of Mr Miller.

Mr MILLER (United Kingdom).- Half a loaf is better than no bread. I am therefore pleased to accept Mr Steiner's sub-amendment.

The sub-amendment was adopted.

Accordingly, the amendment was not adopted.

The PRESIDENT.- Finally we come to Amendment No. 5 in the draft resolution, in paragraph 19, to replace the words "at the latest at the beginning of the 37th" by:

"for its discussion at the next part-session of the 36th".

Mr MILLER (United Kingdom).- I am not sure whether this amendment would be of any great consequence. The situation in Turkey has now been in existence for almost four years and I recognise that to push things forward by a month or two would not serve any great purpose. With the permission of my co-sponsors, I beg leave to withdraw the amendment.

The PRESIDENT.- Thank you, Mr Miller. Sir Geoffrey Finsberg, do you wish to speak against Amendment No. 5?

Sir Geoffrey FINSBERG (United Kingdom).- As Mr Miller has wisely withdrawn the amendment, I do not need to speak.

The PRESIDENT.- We will now proceed to vote on the whole of the draft resolution contained in Doc. 5208 (as amended).

A vote by roll-call has not been requested. The Assembly will vote by a show of hands.

Will those in favour of the draft resolution please raise their hands?

Those against?

Are there any abstentions?

The draft resolution in Doc. 5208 (as amended) is agreed.

Mr VOGT (Federal Republic of Germany), in explanation of vote, said that he had voted against the draft resolution on behalf of the Greens.

The text would have been improved if several of the amendments had been accepted. It had not been a good day for democracy. Many had hoped that the Assembly would not give Turkey the label of a democracy. Allegations of torture had not been denied, and proper investigations of the Turkish situation had not been possible. The Assembly had missed an opportunity.

Mr ALEGRE (Portugal), in explanation of vote, said that he had not found it possible to vote in favour of the draft resolution because some of the wording was unacceptable.

Mr VIAL-MASSAT (France), in explanation of vote, said that he took exception to having been described as a Stalinist by a Turkish member. He would take no lessons in democracy from a Turk.

Mr Flanagan, a Vice-President of the Assembly, took the Chair.

8. LAW OF THE SEA

The PRESIDENT.- The next order of the day is the presentation by Mr Haase of the report from the Legal Affairs Committee on the United Nations Convention on the Law of the Sea (Doc. 5194).

The list of speakers closed at the end of this morning's sitting. Twelve members have indicated a wish to speak.

Mr HAASE (Federal Republic of Germany), Rapporteur of the Legal Affairs Committee, described the United Nations Convention on the Law of the Sea as a highly complex and comprehensive document. It contained 320 articles, nine annexes, and six resolutions. It covered all conceivable rules required to govern the use of the sea and had been opened for signature on 4 September 1982. It would come into effect when it had been ratified by 60 states.

The Council of Europe had held a conference in Palermo to discuss the implications of the Convention for the member states, particularly the exploitation of resources in and under the sea, and proposed procedures for possible disputes. No agreement had been reached at Palermo. Of the 132 signatories of the Convention, 12 were member states of the Council of Europe.

The main problems were to provide for controlling deep sea-bed mining. There were also problems about fishing rights and the definition of coastal zones. The closing date for signature was fast approaching so a decision would have to be reached quickly.

The Committee was urging the signing of the Convention because it believed that the requirement of 60 ratifications would be achieved fairly soon and that therefore member states could best co-ordinate their campaign for improvement of the Convention from within. They also believed that it was important for the Council of Europe to be involved in the preparatory commission that would pave the way for the founding of the proposed international sea-bed authority and the law of the sea tribunal.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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PARLIAMENTARY ASSEMBLY

THIRTY-SIXTH ORDINARY SESSION

(First part)

OFFICIAL REPORT

Sixth sitting

Thursday 10 May 1984 at 10 am

In this report:

1. Speeches in English are reported in full.
2. Speeches in other languages are summarised.
3. Speeches in German and Italian are reproduced in full in a separate document.

Corrections should be handed in at Room F 3142 not later than 24 hours after the report has been circulated.

The contents page for this sitting is given at the end of the verbatim report.

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The sitting was opened at 10 am with Mr Ahrens, the President of the Assembly, in the Chair.

1. OPENING OF THE SITTING

The PRESIDENT (Translation).- The sitting is open.

2. MINUTES OF PROCEEDINGS

The PRESIDENT (Translation).- The minutes of proceedings of the last two sittings have been distributed.

Mr HARDY (United Kingdom).- On a point of order, Mr President. I am sorry to raise this point of order without notice, but I have recently learnt that a pass for a Turkish visitor to the Council has been withdrawn. It was provided for Mr Cahit Baylor through the offices of my colleague, Mr Tom Cox. Mr Baylor was told yesterday that he must surrender his pass and was compelled to give it up. He is now, therefore, prevented from attending and observing our debates, which is the very reason why he came to Strasbourg from London. It is obvious that he is extremely disappointed and we in the British Labour delegation are seriously disturbed by the action that I have described.

I ask that the matter be considered urgently and request that Mr Baylor be allowed access to the public gallery today. I must also ask for an explanation of the withdrawal of the pass, although I accept that it might not be possible for you to give such an explanation now.

Mr MILLER (United Kingdom).- Further to the point of order, Mr President. May I point out that it is a widespread and correct practice in democracies that, irrespective of whether one agrees with the point of view that is being expressed, people have the right to what the British and no doubt others call lobbying of Members of Parliament and therefore lobbying members of this Assembly. Many people might not agree with the point of view being expressed by the person who is legitimately lobbying, but I and the British delegation think it right that that privilege be accorded to accredited people, in the bona fides of whom members of national parliaments and of the Assembly must have confidence. I strongly agree with Mr Hardy that the matter should be investigated as a matter of urgency.

The PRESIDENT said that he had ordered the matter to be investigated.

The minutes were agreed to.

3. ATTENDANCE REGISTER

The PRESIDENT (Translation).- The names of those Substitutes present at this sitting, of which notice has been given to the President, will be published with the list of Representatives appended to the minutes of the proceedings.

4. MEETINGS OF COMMITTEES

The PRESIDENT (Translation).- I should like to draw your attention to a printing error in the English version of the notice for this morning's sitting (Notice No. 6).

The committee which will meet at 2 pm in room 2-10 is the Committee on Parliamentary and Public Relations, not the Committee on Relations with Non-Member Countries as printed.

I should also like to announce that a meeting of the Sub-Committee of the Committee on Economic Affairs and Development on North-South: Europe's Role, will take place at the end of this afternoon's sitting in Room 2-8.

5. DEBATE PROCEDURE - LISTS OF SPEAKERS

The PRESIDENT (Translation).- I understand that a difficulty arose in the application of our new procedure during the debate on the defence of democracy against terrorism in Europe, when some members wished to postpone their speeches from Tuesday evening until Wednesday morning. The practice of the Chair has always been to allow a change of this kind to be made and to place such speakers top of the list when the debate is resumed. Under our new system of time limits this practice disadvantages members of the Assembly who attended throughout the debate, but may be prevented from making their speeches by other members, higher on the list, postponing theirs. In similar circumstances in future I intend to place members who postpone their speeches at the bottom of the list.

Yesterday, in the same debate, other members raised points of order on the compilation of the list of speakers. This is not the first time that this matter has been raised, but I am happy to explain the procedure again.

In compiling the list of speakers I have regard to the duty laid upon me, in accordance with Rule 32 of the Rules of Procedure, to give the various points of view a fair hearing, and in the interests of the debate to depart from the order in which Representatives have entered their names or have asked to speak. I also have the duty to see to it that, as far as I am able, the time is divided as equitably as possible among all members.

In the absence of any information given to me by the chairmen of national delegations and the political groups concerning the priority to be granted to a particular member of their delegation or group, and in accordance with the long-established practice of my predecessors, I give priority to the speakers first by country, secondly by political viewpoint. I also take account of the priority speakers have been given in other debates. I think that this method, which has not changed for some years, contributes to effective debate. I should be reluctant to change it now.

It has also been a long-established practice to allow two members to exchange places on the published speakers list by mutual agreement. I think that that is for the general convenience of the members of the Assembly. I shall also allow, at my discretion as to the circumstances, a member of the same nationality to substitute for another not on the list.

6. SITUATION IN TURKEY (Resumed debate)

The PRESIDENT (Translation).- The first order of the day is the resumed debate on the report from the Political Affairs Committee (Doc. 5208) and the opinion of the Legal Affairs Committee (Doc. 5216) on the situation in Turkey.

The discussion was interrupted yesterday after Mr Cavaliere's contribution. There are 27 speakers on the list.

I remind members that they have agreed to observe a time limit of seven minutes on all speeches and that the general debate must be concluded by the end of the morning sitting. The replies by the committees and votes can take place when we resume this afternoon at 3 pm. The speaking time has been set at seven minutes.

Lady FLEMING (Greece) realised that she disagreed with many members of the Assembly on the best means for assuring democracy in Turkey. However, looking at the experience of her own country, she believed that this gesture towards democracy was merely a sop to the people, intended to reinforce the rule of the military authorities with a semblance of democracy while they continued to violate basic human rights.

In their struggle against the colonels the Greeks had been greatly helped by the Council of Europe's statement that the colonels' regime was undemocratic. By the passing of the draft resolution, on top of the accreditation of the Turkish delegates, the Council had deprived the Turks of that weapon and support that had proved invaluable to the Greeks. She respected the individual Turkish delegates but they did not represent true democracy.

Conditions in Turkey were incompatible with membership of the Council of Europe, which could no longer claim to be a club of true democracies. The draft resolution detailed some of the shortcomings and expressed many pious hopes for improvement. But the Council of Europe had been expressing such hopes for four years and the continuing conflict was destroying the unity of the Assembly. She wanted to see a free Turkey which she could welcome as a member of the Council of Europe.

Mr BLAAUW (Netherlands).- My speech will be brief, because much has already been said about the report. First, I thank the Rapporteurs and the Chairmen of the two sub-committees for their work and for the revealing information that they brought back from their visit to Turkey, particularly from their visit to the Turkish prisons. The result of that investigation is a report fairly critical of the present situation as well as the past. It is clear that there is much to be done in Turkey in many aspects of legislation. There is much work that must be done by those elected in the recent election which - let us be honest - was not a full general election. We hope that our Turkish colleagues here will take back to the Grand Assembly the message that something must be done in practice, by legislation, to do away with undemocratic tendencies.

I am worried about many things that have happened and are happening in Turkey. There are still rumours of the violation of human rights, torture, mass trials, lack of support for those who stand trial, and sentences passed for purely political reasons. To use an understatement, that is not the way to do things.

Our anxiety about the violation of human rights does not mean that we have any sympathy for, or would give any support to, those who oppose the Government in Turkey by terrorist acts, either within Turkey or internationally. In another report we have already made plain that we deplore all forms of terrorism. Those who oppose what is happening in Turkey can never be supported if they express themselves through terrorism.

The report is rather sharp but our aim is to help Turkey. In the recommendation we give clear guidelines about how Turkey should progress to real and full democracy. I hope that those Turkish members of parliament who are here will take home to their hundreds of colleagues in the Grand Assembly the message that - whether or not there is to be a summer recess - they must get down to work, because there is much to be done. I hope that in a year's time when we review the situation in Turkey we shall be able to say to the Turkish Government and Grand Assembly and those who represent them here, "Well done". If not, we shall be in trouble.

Mr VIAL-MASSAT (France) said that the debate on Turkish credentials would influence the Council of Europe for years to come since they had allowed representatives of an undemocratic regime to be present. The communist group regretted that as, if the Council of Europe was a forum of the rule of law, those in power in Turkey should not be present. Turkey was a fascist state. The Greek colonels had not benefited from representation at the Council of Europe. The Turkish elections had changed nothing. Human rights were violated, the fate of the Kurds and of prisoners was appalling. The evidence of those who had visited Turkish prisons was irrefutable and one should remember how the Red Cross had been deceived by the Nazis. He would vote against the draft resolution and work in support of democracy, the end of torture and the release of political prisoners.

Mr HESELE (Austria) said that the Austrian delegation supported the draft resolution, which consisted of a catalogue of requirements of the Turks. The vote for Turkish representation had been conditional on progress to democracy. Both sub-committees thought that there were signs of development in the right direction. The election law had been changed since November 1983 and, although criticism could still be levelled against the Turkish Government, it should not be against the parliamentary delegation or the Grand National Assembly since they had tried to ensure smooth running of democracy. He had always regretted when there had been one Turkish representative at the Committee of Ministers that there had been none in the Assembly.

More progress was needed. No democratic system could avoid full compliance with the European Convention on Human Rights. The trade unions and the press ought to be free and torture had to be eliminated. The Council of Europe was sending that programme to Turkey and demanding further progress,

Mrs AASEN (Norway).- Strong appeals have been sent by the European Trade Union Confederation to the Assembly to show solidarity with the trade union movement by not admitting a delegation from the not democratically elected Turkish parliament to the Assembly until a number of demands as regards the principles of human rights have been fulfilled by the Turkish authorities.

Those demands are that the trial against DISK and its leaders be stopped, that the DISK leaders still in prison be released, that trade union rights be restored, that democratic rights be re-introduced, that political prisoners be given an amnesty, that prisoners be treated according to the principles of human rights, and that freedom of the press and freedom of speech be respected.

The majority in this Assembly did not wait until those demands had been fulfilled by the Turkish authorities, and by the Assembly accepting the credentials of representatives who have not been elected democratically, the possibility of putting pressure on the Turkish authorities has diminished. It is impossible to explain to trade union members why an institution like the Council of Europe, which has as its very foundation the principles of human rights and of genuine democracy, in this way failed to show solidarity with the victims of violations of human rights.

The Council of Europe is regarded as the conscience of Europe on human rights. I wonder whether those trade union members who are in prison because of their devotion to working for human rights are confident today that this conscience is strong enough and alert enough. I wonder how young people in our member countries will react. I wonder how the young generation is to be convinced that the fight for human rights in this organisation is good enough, is honest, when they also discover that fundamental demands for human rights are being overlooked.

Mr Stoffelen assured us yesterday that we should not have double standards on human rights. I agree completely but I am afraid that those suffering in prison because of their belief in human rights will accuse the Council of Europe of applying double standards to Turkey. It is my conviction that the Turkish people do not deserve a second class democracy such as that in Turkey today.

It is intolerable that leaders of the peace movement in Turkey have been imprisoned and given sentences by a military court of up to eight years. The leaders of the peace movement include the presidents of the Turkish medical and bar associations, two columnists from the country's most respected newspapers, four members of parliament, the wife of the former mayor of Istanbul and several professors.

In an article written for the Washington Post on 18 March this year, Colman McCarthy was absolutely correct to underline that those leaders are in no way terrorists. Because they are afraid that we are on the way to destroying our own planet because of the increase of atomic weapons and because they take seriously the proposals from the United Nations disarmament conferences to build up a strong peace movement, they have been silenced by the Turkish generals. In the article, Mr McCarthy said:

"Instead of being given a platform to speak from - they have been given a cell to rot in."

I wonder whether any member of the Assembly dares say that he does not agree with those words and whether anyone dares say that he does agree, if he does.

How can we believe in the Turkish Government's commitment to democracy as long as all the violations of human rights listed in the two reports still exist? I am afraid that the acceptance of the credentials of the Turkish delegation will be used as a victory for the Turkish authorities. The victims of violations of human rights by those authorities - the weakest - should have been supported by the Assembly, but instead it supported the authorities - the strongest. Where is the conscience of the Council of Europe? The doors of this Parliamentary Assembly have been opened to the Turkish delegation, although the doors to freedom are still closed for the victims of violations of human rights in Turkey. I am afraid that by that act we have moved backwards instead of forwards in the work for human rights.

Mr AKARÇALI (Turkey) reminded members that his own Motherland Party was only a year old, that the Turkish elections had happened only six months previously and that Turkish members' credentials had only been ratified 48 hours before. Despite the short time which had elapsed since the progress to democracy in Turkey had begun, there had been considerable achievement. He assured members of the democratic nature of the intentions of Turkish parliamentarians, and cited as two examples of the Bill that he had himself signed providing for a restricted amnesty in Turkey, and the recent decision of the High Tribunal, which had quashed a lower court's decision banning a political party.

The stream of democracy was flowing irresistibly in Turkey, and he asked colleagues, especially French Socialists, to check their facts before they spoke about Turkey, and to take care not to accept unquestioningly the pre-packaged information which emanated from Moscow.

The trust that the Assembly had placed in Turkey would be respected. It had not been pleasant constantly to hear the stringent criticism of Turkey in the Assembly, but Turkey attached great importance to its full membership of the Council of Europe. Greece was Turkey's only democratic neighbour and it was otherwise surrounded by totalitarian states. The EC and NATO were not principally concerned with democracy.

The PRESIDENT asked Mr Akarçali to conclude his remarks.

Mr AKARÇALI concluded by emphasising the Turkish view that the Council of Europe was the principal forum through which democracy was fostered.

Mr MENDES (Portugal) considered that the draft resolution accorded with Council of Europe principles.

There was a long way to go before Turkey could be described as a true democracy, but there should be more efforts to ensure that Turkey continued along its democratic path. Before the military takeover Turkey

had not been democratic: for example, assassination had been used as a political tool. He hoped there would be no reversion to that. Contacts were essential, as the Portuguese experience had shown, in helping to build up a fledgling democracy. Having chosen the Western camp, Turkey was particularly prey to attempts at destabilisation from its authoritarian neighbours.

But there could not be different forms of democracy in member states of the Council. Turkey should maintain steady and visible progress towards full democracy. The municipal elections had been one step, but it should be followed by others. It was most important that rapid measures be taken to maintain the dignity of human life, and the state should use only limited and justifiable means to uphold law and order. Accused should be brought to trial quickly and given proper rights at their trial.

The experience of Portugal and of Poland was that the path to democracy, once embarked upon, would not be left.

Lady Fleming, a Vice-President of the Assembly, took the Chair.

Sir Anthony GRANT (United Kingdom).- We have debated Turkey incessantly in the Council of Europe and I have taken part in almost every debate.

I remind the Assembly, as I have often reminded it before, that there was no true democracy in Turkey immediately prior to the army takeover in September 1980 - there was chaos. I further remind the Assembly, as I have often reminded it before, that the most fundamental of human rights - the right not to be murdered - was being flouted 20 times a day. I agreed with the then Foreign Minister of Greece who told me that the Turkish generals had no alternative but to take power and that there was no comparison with the colonels' dictatorship in Greece. I met General Evren and I believed that he was sincere in desiring a return to democracy when he announced a timetable..

Some of our more Left-wing colleagues, however, have always taken a more gloomy, suspicious view and their suspicions have repeatedly proved ill-founded. For example, on 6 October 1982, our colleague Mr Budtz said:

"Whatever the generals say, there are no signs in their plans of an intention to go back to democracy".

Then the Constitution was published.

On 26 January 1983, Mr Budtz said:

"the Constitution cannot be expected to be democratic ... the Junta will simply continue its existence".

The Constitution was approved by 92% of the voters in a referendum which was considered fair by all impartial observers. There were then elections in which the junta's favoured party did not succeed. That result was confirmed in local elections.

Our Left-wing colleagues then concentrated on ill-treatment and torture in prisons. There was torture before September 1980, as Amnesty International reports pointed out. I do not recall the Left wing complaining about that. The present regime is, by comparison, vigorously bringing those who are guilty of cruel behaviour to justice.

With colleagues, I recently visited Mamuk prison in Turkey. It was well-run but tough - but, after all, prisons are not meant to be four-star hotels. Conditions there were, I thought, slightly better than those which I enjoyed when I first joined the British army.

Do not take it from me; listen to our friend Mr Dejardin, as reported in a statement to the press after his visit. He said:

"We met and talked with four prisoners who, according to Amnesty International, are dead. They looked very healthy to me... We did not see a trace of torture. We cannot say there is no torture, but we cannot also say that there is".

I agree with Mr Dejardin. However, I sincerely hope that Turkey will speed up the trials that have dragged on for far too long. Why not separate the worst offenders from the lesser ones and pursue those guilty of murder and violence as vigorously as possible and give amnesty to the minor non-violent offenders?

Of course there is more to be done, and of course, it takes time, as was the case in Portugal; which banned some political parties at its first election. It also took time in Spain, but we embraced both in our Council of Europe family and we have never regretted it. As virtually all European ambassadors in Ankara told us, there is still some way to go, but Turkey is moving in the right direction.

I have sometimes been critical of Mr Ludwig Steiner, but I have never doubted his remarkable diligence and energy. His report is a hard-fought compromise. I hope and believe that in one year's time we shall be able to cross off many of its criticisms. I hope that my Turkish friends will make my forecast much more accurate than that of some of our Socialist prophets of doom.

Mr KITTELMANN (Federal Republic of Germany) questioned whether all the speakers in the debate had specifically addressed themselves to democracy in Turkey. He supported the resolution and largely agreed with Sir Anthony Grant. He repudiated suggestions that Mr Steiner had acted in bad faith. Many criticisms had been based on unsupported allegations of violations of human rights. Those making allegations should produce their proof or remain silent.

Mr KARAKAS (Turkey) expressed his great pleasure at being present in the Assembly. He was glad that Turkey had been offered a helping hand by the Council of Europe. As a former speaker of the Turkish parliament he had himself found it difficult to accept the need for military rule but before the military takeover law and order had broken down completely and democracy had been almost impossible. Turkey had been through a difficult time but the military authorities had respected the timetable for the restoration of democracy.

He did not accept that the Grand National Assembly had been elected undemocratically, for it had been endorsed by 92% of the population. One of its first actions had been to make it possible for a wider range of parties to stand in the municipal elections, a demonstration of progress. The Council should not refuse its support for Turkey in its struggle for democracy.

Mr CARDIA (Portugal) sympathised with the Turks in their problems with hostile neighbours and the threat of internal terrorism, both of which could destroy democratic or quasi-democratic countries. He was glad to see Turkey a member of NATO. However, the definition of democracy should not be changed for mere expedience. Not only had the will of the majority to prevail but the right of opposition had to be respected. There could be benevolent autocracies or dictatorships but that benevolence did not make them democracies.

The PRESIDENT.- Mr Hardy, have you chosen to speak for only five minutes, or is it an error?

Mr HARDY (United Kingdom).- I hope that it is an error, Madam President. I originally asked for five minutes because I had planned to speak for seven minutes earlier in the week.

Having addressed the Assembly on the subject of Turkish membership on several occasions during the past few years, and bearing in mind the earlier comments of other parliamentarians who cling to democratic practice, I shall not need to make a long speech. My colleagues and I in the British Labour delegation wish that we could welcome Turkish participation here. However, we are not able to do so, and we shall not be able to do so until Turkish political arrangements provide the justification for doing so.

The situation in Turkey cannot be described as fully democratic. Anyone who so describes it is deluding himself. I point out that concern about the absence of democracy will be expressed in this debate by 16 Socialist speakers from 11 countries. Excluding speakers from Turkey, there will be 12 speakers from the political Right, including six from the British Conservative party. We note their current influence and responsibility.

We all accept that there is an intention to restore democracy in Turkey and that there has been some movement in that direction, but no one could claim that the restoration of democracy has been achieved. We hope that it will be achieved, and we trust that we shall help it to be achieved, but we cannot claim that it has happened yet.

There are some members who appear to be opposed to the observation of any achievements and who are critical of any prospect of the continued monitoring of events and developments in Turkey. I believe that monitoring should continue. We should certainly avoid internal interference - that would be an abuse - but I cannot object to the observation of any departure from political freedom and civil rights in Turkey or elsewhere. If there were any such failure in my own country, I should wish it to be observed.

The report demonstrates that some progress has been made. There were the local elections a few weeks ago, but martial law still covers most of the people and unconvicted prisoners of conscience still languish in goal. Turkey's representatives with us today are drawn from a Grand Assembly which is not based on political freedom. Many individuals and some political parties were not allowed to contest the election. We would be wrong to endorse - indeed, we have been wrong to endorse - the anti-democratic and anti-representative base of that assembly.

Sir Anthony Grant suggested that some of my colleagues were guilty of unfounded suspicion, but even he had to concede, and make suggestions about, the absence of civil rights. The fact that civil rights are absent in whole or in part should be a matter of significance in our considerations.

We appreciate Turkey's difficulties. I hope that our countries will assist Turkey to overcome those difficulties. If Turkey makes economic progress, it may be possible for political and human rights to be more readily conferred, but those rights do not yet exist in sufficient quantity to justify the decision which the Turkish representatives wish us to make.

We have been told that if we disagree, we should abstain from voting. My colleagues in the British Labour delegation cannot possibly abstain in the present situation, where right, freedom, and democracy do not exist. We shall continue to hope that one day - which we hope will be soon - we shall be able to vote with, and welcome, our Turkish colleagues. However, until democracy exists in their country it would be wrong and dishonest, as well as utterly irresponsible, of us to do so.

Mr REDDEMANN (Federal Republic of Germany) said that the Council of Europe had had many debates on human rights and on Turkey but there was a difficulty about setting up themselves as sole defenders of human rights. The reputation of the Assembly was as much at issue as human rights in Turkey. For many years the Council had had contacts with the military leaders in Turkey and had noted progressive improvement, so he welcomed the new Turkish members. Not all the conditions for the defence of human rights had been met in Turkey and the Council should continue to pay critical attention to the Turkish government. He supported the work of the Political Affairs Committee.

Mr INAN (Turkey).- The country which I have the honour to represent has been on the agenda of this Assembly for the past three years. We are becoming a regular item on the agenda, to the point that when I return home some of my countrymen will ask what will remain for the Assembly to do when it has finished discussing Turkey. We are not complaining. It is an indication of the close interest in my country, and I prefer interest to indifference, even if some of the remarks are made with bitterness and are difficult to accept.

One of the principal rules of democracy, and of this body, should be fairness and objectivity, and I do not believe that all the remarks that we have been hearing about Turkey have been fair. The descriptions of Turkey by some speakers as compared with the descriptions of the Rapporteurs and visiting delegations create such a picture that I have some doubts about whether the country described is indeed my country. I am reminded of the report of a Scandinavian ambassador to his government about a year ago. He said that the Turkey in which he represented his country was not the one described in the mass media in his own country. All this should be taken into account.

Some limit should surely be expected. I am happy that Mr Vial-Massat's concept of democracy in Europe will never prevail. Were his concept to prevail there would not be a Council of Europe. But such views belong to history and will never come back.

I listened to your intervention in the debate, Madam President. Yours and other interventions were bitter and critical. They seemed to be an expression of systematic anti-Turkish animosity. Why? Because we are here today from Turkey. Greece recovered its freedom and democracy 10 years ago, even if that fact is now being used against us. Greece recovered its freedom and democracy 10 years ago following the events of 15 July 1974, when we played a very modest role. Had Mr Sampson succeeded in his coup in Cyprus in 1974 the colonels would still be in power in Athens. We are happy that the colonels are no longer there. Greece has recovered its freedom and is now using that freedom against us. There is a limit on good neighbourliness and fairness, it seems, but peoples have to live together in peace. It seems that you, Madam President, think that that limit has now been reached.

The draft resolution, the amendments and the debate give me the feeling that this Assembly is trying to write a new constitution for Turkey, as though for a newly born state. It seems to be felt that Turkey is unable to draft a constitution for itself, and that directives are being prepared for Turkey to be governed. Perhaps members would like to nominate a governor general to Turkey.

Turkey has nine centuries of experience of creating states. We were doing it a long time before many member states of the Council of Europe came into being. We are quite capable of writing our own constitution and governing ourselves.

For others to attempt to write prescriptions is not always a democratic and healthy approach. No doubt many people write such prescriptions with good feelings and intentions, and we respect them, but there are others writing prescriptions, on the line that Mr Vial-Massat is taking, which could by implication involve sending troops to Czechoslovakia to establish democracy there. Others are using prescriptions for economic pressures. We are all witnesses of this attitude. When writing prescriptions for others, even from a democratic viewpoint and concept, there are still limits and a need for care, and those limits should be respected.

We in the Turkish delegation are here and I think that we have confidence in all our partners. We expect confidence from them. We are not a newly born state to be given lessons. We are not newly elected parliamentarians who have to learn. If democracy has long been the practice in your country, Madam President, it has been practised in my country for even longer.

The PRESIDENT.- Thank you, Mr Inan. Perhaps it would be better to attack me when I can answer. When I am in the Chair, I cannot do so.

Sir Dudley SMITH (United Kingdom).- More than 5,000 people were killed during the small civil war - because that is what it was - in Turkey in the period before September 1980. In addition to those poor, wretched 5,000 people, many others were wounded and considerable numbers went in fear of life and limb during that period.

Since the military coup took place, and since the military restored order in Turkey, remarkable progress back towards democracy has taken place. I was assured in this Assembly by Socialists that that was the end of democracy in Turkey, that I would not see democratic government again in that country. I was assured that after that that there would not be a new constitution, that there would not be free elections and that there would never again be a delegation to this Assembly from Turkey, because if such a proposal were made it would be soundly and roundly rejected by the Assembly.

All those prophecies have been confounded. Having been fortunate enough to have been in Turkey before the coup, to have been there as an observer during the election last November, and again only very recently for five days as a member of the joint sub-committee of this Assembly, I must say that I am very impressed, indeed, with the progress that has been made. I go so far as to say that in Turkey today there is probably a better democracy than there was several years before the takeover.

I am also considerably impressed with the high quality of the ministers who now hold office in the administration in Ankara, and also with the Members of Parliament, of all parties, who have been successful in achieving election. We have been fortunate enough to be able to welcome several of them here this week.

During our visit, I felt that one of the most worthwhile and interesting exercises was the meeting which our joint chairman, Mr Elmquist, was able to arrange, through the Danish ambassador, with the diplomats who are present in Ankara. We were fortunate enough to meet about nine ambassadors, all of whom were able to give their professional, expert and independent opinion of what was going on. I think it would be fair to say that, with the exception of the Greek ambassador, all were complimentary about the progress that had been made, and all were extremely optimistic about the course that democracy would take in Turkey. Even the Greek ambassador, to do him justice, was not totally condemnatory. Although he was less enthusiastic than the others, he was by no means unhelpful.

Our meeting with Mr Özal, the Prime Minister, was a refreshing and frank encounter. He made it clear that he needed time to improve the economy and living standards and to advance democracy. He was one of the first to admit that the country still had some way to go. In answer to one of my questions he prophesied that in four or five years' time probably only about 8,000 people would be in Turkish gaols, compared with the numbers there now. He emphasised that the authorities had to consider carefully the prisoners who had been responsible for previous insurrections, because it was feared that if they were released they might become tomorrow's terrorists.

The Prime Minister said that he wanted stronger monitoring of Turkish prisons. He agreed that they were below the standard of prisons in other parts of Europe. He said that he was starting to remove martial law and was keen on re-establishing civil courts in Turkey. He considered that the press was already regaining its freedom, and he said that some of the newspapers were already critical of his administration and what he was trying to do, which underlined the fact that the press had freedom of expression.

Like my colleague Sir Anthony Grant, I believe that in Turkey there is a need to speed up the outstanding trials. Some of them have dragged on for too long. There should be an amnesty for most non-terrorist detainees.

We have heard much criticism of the constitution and of the residual powers of the military junta. Turkey has been to the brink several times. It has experienced a military intervention about every 10 years. Surely it is sensible and intelligent to be prudent now and to try to found a democracy which will be permanent and stable.

The Left wing in the Assembly, as in so many other places, has been highly selective in its attack on Turkey. I wonder whether it would have been as critical if a Left wing government had been elected.

Mr HARDY (United Kingdom).- Yes.

Sir Dudley SMITH.- I beg leave to doubt that. It is significant to me that whenever a Right of centre government gets into power, the Left wing becomes very vociferous. The Left, as so often, has been wrong in this case. It will be proved to be wrong, because Turkey will flourish. Its delegation to the Assembly will enhance the Council of Europe.

Mr ÖZARSLAN (Turkey).- This is indeed a great opportunity for me to give you first-hand information objectively so that we can assess the situation in Turkey and to enable us to contribute more actively to the normalisation of relations between Turkey and this Parliamentary Assembly.

When examining the situation in Turkey, one should take account of two aspects. One is the process of democratisation in Turkey. The other is the slanderous propaganda campaign against Turkey, initiated by those who do not wish the process of democratisation to be successful.

One should bear in mind the conflict between terrorism and democracy. Everyone will agree that terrorism is a major threat to democracy and that democracies have the right to defend themselves against terrorism. The Parliamentary Assembly of the Council of Europe, being fully aware of the seriousness of the problem, is seeking effective ways and means to defend democracy against terrorism in Europe.

That conflict between terrorism and democracy was evidenced in Turkey before 12 September 1980. I deem it useful to remind you that during the three-and-a-half year period between the general election of 1977 and the intervention of 12 September 6,000 people lost their lives and 15,000 others were injured or mutilated as a result of terrorist attacks by both extremes, as well as by separatist organisations. Those figures, which are not lower than the number of soldiers and officers martyred and injured during the battles of Sakarya, the most decisive and bloody battle of the Turkish war of independence, demonstrate that Turkey was confronted with an undeclared war.

Another statistic will make it easier to comprehend the magnitude of the said threat. The number of firearms including rockets and rocket launchers captured by the security forces from 12 September to date is about 900,000. The total value of that awesome arsenal exceeds \$400 million. It is opportune to underline that that arsenal would suffice to equip the armed forces of several member states of the Council of Europe. It is also useful to remember that the daily death toll of political terrorism was as high as 25 in the few weeks preceeding the army's intervention.

However, in the period before 12 September not only was Turkey confronted with imminent danger to its territorial integrity and the fundamental rights and freedom of its citizens, but its political system and constitutional organs were in a state of complete paralysis. An assessment of the developments in Turkey in the past few years, with that background in mind, helps one to understand why the process initiated in Turkey in 1980 constituted an advance from chaos to democracy.

As is known, the National Security Council that took the helm on 12 September 1980 declared that day that the objective of the intervention was to eradicate terrorism, to establish law and order, to stabilise the economy and firmly to reinstate pluralistic democracy.

Those who visited Turkey before the election had the opportunity to observe that a consensus existed in the centre on two points: first, democracy is a way of life in Turkey and any other regime would be unacceptable to the people; secondly, people are equally determined not to return to the pre-12 September period.

The Turkish armed forces lived up to their promise and ensured the re-establishment of democracy. The new Constitution of the Republic, supported by 92% of the electorate, was adopted. The general election was conducted properly on 6 November 1983. Some 92% of the electorate went to the polls and voted freely. Only 4.8% spoilt their ballot papers. The National Security Council was dissolved on 6 November 1983, and the Presidential Bureau of the National Assembly was formed. Legislative and executive powers were thus transferred unconditionally to elected civilian organs.

Turkey now has an elected parliament - not a "so-called" parliament, but a real parliament - and our representatives are not "so-called", but genuine parliamentarians chosen by the Turkish people.

One of the first decisions by the National Assembly was that local elections should be held at the earliest possible date with the participation of all political parties. People opted for stability, because that is what they wanted. The successful accomplishment of that major step attests incontrovertibly to the irreversible nature of the process of democratisation in Turkey.

We are affectionately tied to democratic order and we believe that democracy is the sole basis for national sovereignty. Martial law has been lifted in 13 provinces. The process will continue and martial law will gradually be lifted completely.

Sir Geoffrey FINSBERG (United Kingdom).- I visited Turkey as a guest of an independent foundation. I was able to see everyone whom I requested to see, including some of the people who, after listening to the Socialists here, one might think were behind bars. I was able to see and talk to anyone I wished.

There has been so much distortion that I scarcely know where to begin. The pending legal action against the True Way Party is in accordance with the Turkish Constitution. I wonder how many of the Socialists here have actually read that Constitution word for word. I have done so twice. If one has a constitution, one should observe it. Any prosecution will be decided by an independent judiciary and as independent as that of Mr Budtz's country and my own.

I have no doubt that there has been brutality in the prisons. It has been admitted, and those responsible have been punished. I wish that the same action could be taken in the Soviet Union, where we know that brutality takes place with the assent and total support of the state. Before the military takeover in Turkey, anarchy was rampant. Murder and political assassination was the order of the day, running to a total of about 2,000 per year. As we have seen and heard, martial law has now been partially lifted and will be removed completely as soon as possible, but no one with any intelligence believes that it can be removed immediately without putting Turkey back into the state of anarchy that led to the military takeover a few years ago.

I hope that Turkey will rapidly accept the full obligations of the European Convention on Human Rights. Earlier today Mrs Aasen had a great deal to say about conscience, and human rights, but she has no monopoly on conscience, and I reject much of what she said and the conclusions which she wrongly drew from a collection of newspaper articles and propaganda. It is easy in comfortable surroundings, to utter high-sounding, idealistic opinions. Things are much more difficult when trying to climb out of anarchy, back on the road of democracy.

No honest person could deny that progress began with the parliamentary election in Turkey - an election far freer than many of the farces that take place in Eastern Europe. Equally, no honest person can deny that the process was accelerated by the local elections, which not only confirmed the democratic process, but showed that the Government party had increased its popularity with the people. No one has even tried to deny that.

Some British Socialists were invited by the same foundation to go to Turkey, but they did not do so. Were they afraid to discover the facts for themselves? As we know, some Socialists have been to Turkey, but in some cases they seem to have changed their minds since their return or have their minds been changed for them? Others seem unwilling to face the truth.

I have noted with growing surprise the strange alliance that has been forged in the Assembly in the past couple of days between the Communists, whose hypocritical praise of democracy I resent, because it is unknown in Communist states, and the bulk of the Socialists, with all too few, but none the less honourable exceptions. Indeed, I wonder whether there is something more sinister behind their blind hatred and prejudice. Do they want to drive out the Turks, not just from the Council of Europe, but from NATO? That would certainly suit the Left wing and would expose democratic Europe, in which we all believe, to some of the most dangerous risks.

The Interparliamentary Union has taken Turkish parliamentarians back without a vote. There was none of this high-flown nonsense about putting them on trust. That body has taken them back fully. The NATO parliamentarians have also taken them back fully. The Council of Europe, by a substantial majority, has recognised their credentials, which should never have been challenged because they were legally in order in accordance with our rules. We have seated our Turkish friends. Let us now support the Steiner Report. It is a model and a consensus which neither side likes, but it is a consensus and ought to be supported. I hope that our Turkish friends will continue to work for full acceptance of what is in that report. I believe that they will respond much more fully from within the Council than from outside, and I believe that as honourable parliamentarians they deserve our support.

Mrs KALAYCIOĞLU (Turkey).- Madam Chairman, dear colleagues, I should like to point out that, as you are well aware, with the pre-1980 terrorist activities Turkey faced an imminent threat to its territorial integrity and the fundamental rights and freedoms of its citizens, not least the right to life.

The first district of Ankara - my constituency - has 1.5 million inhabitants, 80% of whom live on the outskirts of the city in squat houses or shacks without sewers or running water. They are deprived of the most basic necessities that most of us here take for granted.

Those sections of Ankara - namely, Mamak and others - were once strongholds of terrorism where daily about 25 people were randomly shot to death. My constituents, knowing of my membership of this body, often ask me about the role and duties of the Parliamentary Assembly. I hope that some of their questions will help us to reflect on our future duties. I am often asked why members of the Assembly defend terrorists who pretend to be political prisoners but who in fact made our people's home their prisons and terrorised them, randomly shooting and killing men, women and children.

Other questions my constituents have asked are, "Why did the members of the Parliamentary Assembly decide to come to Turkey now on a fact-finding mission to assess its conformity with human rights principles? Why did not a fact-finding delegation show up before, when every day 25 of us were being killed and all basic human rights to do with survival were violated every day? As victims, are we not qualified to enjoy human rights in the Council, or are they applicable to only a certain group?" Were human rights principles established and adopted only recently? Such negligence is not pardonable.

The delegation visited Mamak prison. My constituents live in Mamak in the shacks that I have described. They have been sceptical about the Assembly and its role. It is they who were the victims and suffered most from terrorist activities. Theirs was the battleground of both extremes. In addition, Mamak, with a population of about 600,000, is devoid of the most basic necessities of modern life and has a high unemployment rate. As a member of this parliament and someone who has suffered the torments of terrorism personally, I appeal to all members to co-operate in the successful eradication of terrorism so that we can prepare for future generations a better world than ours, a world in which peace, love and brotherhood will prevail.

It is easier to blame others than to help and understand them. The Assembly should not be used as a forum for accusations through personal feelings or national policies. During our absence, and now even in our presence, our Aegean neighbours exploited every opportunity to attack Turkey, without any respect for fairness and truth. Representation of Cyprus in the Assembly is a recognition of circumstances on the island. That also means the shrinking of the geographical area covered by the Council of Europe and all the consequences and responsibilities associated with it.

Mr MURPHY (United Kingdom).- Ataturk proclaimed his desire for the Turkish people -

"to reach the secular civilisation of the West".

Recently, as part of that commitment, Turkey has been a member of the Council of Europe and successive governments have endorsed that membership.

When discussing affairs in Turkey in the Parliamentary Assembly of the Council of Europe, we are viewing the welcome return of democratic government to that troubled nation. The road to full democracy is proving somewhat long and tortuous, not least because of the fundamental problems relating to terrorism that the Turkish people have had to suffer. However, in the past six months there have been historic steps towards the final destination with the general election in November and local elections in March. Bearing in mind developments in Turkey, it is appropriate that the report should state:

"it falls on the Council of Europe to encourage the present process of democratisation, in accordance with the will of the Turkish people".

Following the long association of the Council of Europe with Turkey, the spirit of parliamentary democracy has been inculcated in the political system and governmental institutions of that country. That most valuable of assets must be protected carefully in an area that is unfortunately renowned for dictatorship and violent upheaval. It is therefore vital that Turkey be given full support throughout this transitional period.

The Council of Europe should appreciate the importance to Turkey of accepting Ataturk's dictum of -

"turning to the West and Europe".

It should provide whatever strength it can for that fragile democratic process. It should also be appreciated that to the East lies the threat of the Soviet Union and unhappy lands such as Afghanistan. That should ensure our commitment to the successful, albeit gradual, return to full democracy in our fellow member state of Turkey.

Lord REAY (United Kingdom).- I should like to extend a warm welcome to our Turkish colleagues, who have rightly been recognised by the majority as having earned their place among us once again as fellow democrats and parliamentarians. I do not see how one could conceivably expect Turkey to have done more in the time available in terms of restoring democracy, reintroducing justice and improving her record on human rights.

Like Sir Dudley Smith, I believe that the achievements of the Turkish military authorities have been remarkable. Although it is not widely appreciated, the Turkish army has once again performed what seems to be its traditional function as guardian of democracy in Turkey. I sincerely hope that the Turkish military will never have to perform that function again. If democracy were once again to disintegrate in Turkey, the outcome next time might not be nearly so satisfactory.

Turkey has plenty of enemies, who were defeated this time but who will have learnt lessons from that defeat. No doubt the Turkish authorities were properly and prudently determined to restore democracy on a sounder, more promising and more lasting basis and therefore not to be rushed and get it wrong. As someone who has been critical of some of Mr Ludwig Steiner's reports, I should like to pay tribute to his untiring efforts to produce a consensus, efforts that this time have been successful.

I can support the resolution, although it goes to the limit of what can be tolerated by our Turkish colleagues. I could not support it if it were substantially amended. Fortunately, the Political Affairs Committee rejected all of the significant amendments. I hope that that will be true of the Assembly as a whole.

I hope that the debate will prove the last in a long orgy of scrutiny and criticism of Turkey that has been the principal diet in our affairs for the past three years. From now on we shall not and should not ignore what happens in Turkey in further development of its democracy or human rights. Turkey will remain a proper subject for close interest but henceforth we should show a greater sense of proportion and remember that none of us has a perfect system. Having accepted Turkish parliamentarians back as colleagues, we should remind ourselves that this institution exists for members to strengthen rather than weaken their fellow democrats.

Mr MARGUE (Luxembourg) commented that in his 25 years of membership of the Council of Europe he had heard many discussions about Turkey, for example, the problems of emigration, of relations with Greece, and the status of Cyprus. Undoubtedly, Turkey was a special case. It was an isolated democracy on the edge of Europe and could not be directly compared with, for example, Britain or Sweden.

Ataturk had not himself succeeded in introducing democracy into Turkey in his lifetime. When Turkey first joined the Council of Europe in 1948 it had not been required to subject its institutions to the kind of scrutiny that was currently being applied to them, yet it was now undoubtedly far more democratic. At the time of its first military takeover, one of the accusations against the previous regime, which had been accused of all manner of aberrations, was that power had been seized by one party. During the interregnum only one member of the Council of Europe championed the cause of the former Turkish delegates then in goal. When Turkey returned to the Council of Europe once more no one had questioned the status of the new delegates.

They should continue to extend that tolerance to Turkey in 1984. However, Turkey itself should become more tolerant of its minorities. Secularisation had not resulted in complete religious freedom. More tolerance of the Kurdish and other ethnic minorities was needed. Steps should be taken to preserve the language and culture of the Kurds. Turkey should grant its citizens the right of individual petition to the European Court of Human Rights.

Mr FOURRE (France) said that positive steps towards the restoration of democracy in Turkey had been taken. Yet the Council of Europe, in all its many debates on the question, had never been able to express unqualified approval of these changes as being in full conformity with the governing principles of the Council of Europe. At each stage they had expressed qualified approval and a hope that the next stage would demonstrate an improvement.

The Turkish parliamentarians had had their credentials confirmed. The criteria for confirmation should be respect for human rights rather than the mere existence of a parliament. The Council of Europe had principles and it was not enough for each Turkish parliamentarian to say that he would defend them. The Turkish Constitution needed to be fundamentally altered. One Turkish political party had proposed 24 modifications on trade union problems alone. Would the Turkish parliamentarians support those proposals?

Observers returning from Turkey brought back questions but not certainty. The Turkish Government should allow prisons to be visited. There was a will to establish democracy and human rights but swift decisions were needed. Freedom of opinion was essential and he deplored the fact that recently a judge in Istanbul had been condemned for "opinion offences".

Mr AKARÇALI (Turkey) interjected on a point of accuracy and said that the 25 points related not to the constitution but to legislation.

Mr VOYATZIS (Greece)-. The situation in Turkey is a subject with which this Assembly has repeatedly concerned itself. Turkey was not excluded from the Council of Europe when the dictatorship was imposed as it should have been. Turkey continued to participate in the Council, and patient and persistent efforts were made for the return of democratic procedures in that country. The Political Affairs Committee and the Legal Affairs Committee devoted much time and effort to that end. In particular, I note the work and effort of the Rapporteur of the Political Affairs Committee, Mr Steiner, to whom congratulations are due.

No one here doubts that in Turkey today real democracy, as we understand it and as the statutes of the Council of Europe define it, does not exist. That was admitted even by the Turkish representatives themselves. The draft resolution is based on the perception that steps have been taken towards the restoration of democracy. The hope is expressed that the procedures for a return to genuine democracy will soon be completed. It is on that understanding that the Assembly accepted the credentials of our Turkish friends, the Turkish delegation. However, some of our colleagues - particularly the members of the Turkish delegation - have argued that the dictatorship was necessary because of the anomalous situation in Turkey. That argument is unacceptable. It would justify the dictatorships of Hitler, Mussolini, Franco and the colonels in Greece.

Dictatorships do not solve social problems. All over the world they make them worse. Our Turkish colleague, Mr Inan, told us that we should not judge Turkey strictly on the basis of democratic procedures

because Turkey was a poor country with a national income of \$1,000 per head. If that is the case, why does Turkey take away resources so necessary for the social needs of its people and spend hundreds of millions of dollars on maintaining an army of 30,000 men for the occupation of another member country of the Council of Europe? Where does Turkey find the resources necessary for maintaining hundreds of landing craft on its western shores opposite the Greek islands?

I should like also to express deep sorrow that Mr Inan hypocritically and indirectly mentioned the invasion of Cyprus by Turkish troops as having saved democracy in Greece. I ask him when Turkish troops of occupation are to withdraw from Cyprus. Democracy was restored in Greece 10 years ago, but there is still a Turkish army of occupation in Cyprus, another member country of the Council of Europe.

The acceptance of the Turkish representatives in the Assembly was made under obvious conditions, as the draft resolution admits. The conditions are that they should try through their parliament to seek to alter the constitution and remove the laws of the dictatorial regime within a short period. It should be made clear that if these changes are not made and the existing conditions continue, the Assembly will be obliged to change its attitude.

In this context, we wish the Turkish representatives, our colleagues, success in their difficult but important task.

Mr STEINER (Austria) (Rapporteur of the Political Affairs Committee) said that in a democracy people had different opinions but the same principles. A difficult decision was required since the Turkish situation was not clear cut. The majority of speakers had supported the draft resolution and the Council of Europe was anxious to continue observing events. The draft resolution said what had to happen for Turkey to conform with the Statute of the Council of Europe. The Resolution did not represent a dual standard of democracy and nor did it lack solidarity with those who were deprived of human rights. The demands of the resolution had to be put into practice and it was the duty of the Turkish delegation to press for a full return to democracy as soon as possible.

Mr STOFFELEN (Netherlands) (Rapporteur of the Legal Affairs Committee).- I thank those who spoke, almost all of whom supported the two reports and the draft resolution. There seems to be a misunderstanding. This is not a debate about credentials. The Assembly has taken its decision on that. Some deplore it and others do not. This debate is about the present situation in Turkey. We must evaluate the situation following the criteria of the European Convention and additional protocols. I share fully the opinion of my colleague, Mr Steiner, that we cannot, should not and do not have double standards.

For that reason, both reports referred to the serious problem of the position of the Turkish parliament with regard to the First Protocol, mentioned in Resolution 803. We reported on the problems concerning the political parties. A judicial investigation against the True Path party has been started. We mentioned the desperate position of DISK and the wish to amend the law on trade unions. We reported on the problems relating to the freedom of the press and censorship. We made it clear that many Turkish citizens were in prison or in custody just because they expressed their opinions, as people in other member states did freely.

We said that there was a need for amnesty for political prisoners. Some members criticised us and said that we were misled. We got permission to visit a prison one night in advance of our visit. Members visiting the prison of Diyarbakir did not mention to anyone, not even members of the sub-committee, the names of the inmates with whom they talked. An accusation was made that even those people had been "programmed". I cannot believe that someone who talked about shocking torture was made to do so by the government. That is not likely. I doubt whether those who were not there would know better than those who were what happened. Even if it were true that we were misled, I should repeat what we reported. The question is whether what we reported is correct.

We reported on the problem of the numbers of people in custody. It is so high that it exceeds the capacity of the prisons. There were many allegations that torture was going on. We reported that apparently the food was rather good but that in some prisons there was no opportunity for the inmates to go out daily into the open air. We expressed our serious anxiety that there was no free contact between lawyers and accused. Even more worrying was that persons were in custody for three, four, or five years without being tried. No one has suggested that that evaluation is wrong.

Therefore, I conclude that with few exceptions members of the Assembly will support the resolution and the two reports. First, it is undeniable that great progress in the direction of restoration of full parliamentary democracy and respect for human rights has been made in recent months. Some may exaggerate the progress while others try to minimise it, but whether we like it or not, the progress is a fact.

Secondly, a long and difficult path must be followed to achieve the aims and guarantees of normal parliamentary democracy.

Thirdly, we conclude that

"according to the standards of the European Convention on Human Rights, Turkey is not yet a normal parliamentary democracy."

Many measures are indispensable to the restoration of normal parliamentary democracy.

We must now express clearly our demands and we must continue to do so. We must ask the committees further to evaluate the situation and to report back to the Assembly so that we can decide again and see whether Turkey fulfils its promise to restore full parliamentary democracy.

I cannot imagine that anyone who has justified criticisms of the situation in Turkey could do other than support the draft resolution. It is the only logical conclusion and I sincerely hope that the Assembly will adopt it, if not unanimously, at least with a large majority as an expression of our concern.

Mr BAUMEL (France) (Chairman of the Political Affairs Committee) said that the debate had been lengthy but important and had followed the vote with a considerable majority in favour of the ratification of the Turkish members' credentials.

Mr Steiner's report was excellent, and whatever members' views might be, they could agree in thanking him. His report had assessed the Turkish situation in a balanced and firm manner. Mr Stoffelen was also be be congratulated on his objective presentation of the Legal Affairs Committee's report.

It was important for the prestige of the Council of Europe to have broad agreement about Turkey. Turkey was not being given a blank cheque, but the evolving situation was being assessed and monitored. Nevertheless, the Assembly should not set itself up as a permanent monitor of Turkey.

He thanked all who had spoken in the lively debate and hoped that any excesses of language contrary to the spirit of the Assembly would be forgiven.

Mr ELMQUIST (Denmark) (Chairman of the Legal Affairs Committee).- Critics of the work of the Council of Europe have often asked me why we spend so much time discussing Turkey as it is just one of the member states. They ask why we do not spend more time discussing human rights and economic and political issues in other countries. The debate on credentials and our debates yesterday and today confirm that this is a democratic exercise. Those of us who do not come from Turkey have learnt from the debate. We can also learn from the fact that we have had a Greek parliamentarian - Lady Fleming, who is a strong critic of Turkey, conducting the debate excellently from the Chair. We are not discussing just one member state - Turkey - but democratic principles in our organisation.

I should like to thank our Rapporteur, Mr Ludwig Steiner - I almost said "naturally" as he has done great work for many years. I should like to extend special thanks to Mr Stoffelen, who has done a perfect job and had to take over from Mr Claudius Alder, who is no longer a member of the Assembly. I am glad that Mr Stoffelen paid tribute to the Legal Affairs Committee. I thank you, Mr Baumel, as Chairman of the Political Affairs Committee. We should not forget also the work of the Secretariat in organising our visit to Ankara.

I am not reverting to the credentials, upon which we voted the day before yesterday, but one might be tempted, after the debate on terrorism, in that context to use the phrase, "We have now taken Turkish delegates as hostages in our Assembly". That is a very harsh way to put it. I shall not make that my consideration, because we are democrats and we do not take hostages. We now have a guarantee of having partners in a dialogue. The Turkish delegates have undertaken an obligation to be partners in such a dialogue. Therefore, we shall have to listen to them and they will have to listen to us.

I should like to comment on two interventions. One was made by Mr Neumann, a German Socialist. Yesterday, he quoted Mr Hirsch, a German journalist, from some information in "Frankfurter Rundschau". The other was made by Mr Vial-Massat. I was one of the three delegates who went to

Diyarbakir. I do not suggest that it was the aim of the interventions, but we should be careful not to attack the integrity of the three delegates who were sent there. It was the decision of the whole of the Turkish delegation to allow those three persons to go. We knew before we went that it would be a difficult mission. We had only a very short time to prepare for our visit. We could not go as investigators! We went as parliamentarians, and we have given our impressions of that visit frankly.

There have been some allegations by, among others, Mr Hirsch, that we were manipulated. I shall not criticise him, because he is not present and is in no position to reply. I went to Diyarbakir with Mr Dejardin and Mr Guntern, who is no longer a member of the Assembly. However, Mr Dejardin and I are to send a letter to the President of the Turkish delegation to the Assembly asking him to provide us with certain documentation relating to our visit.

The first documentation relates to the recent photographs of the eight persons whom we saw in the prison. We still remember how they looked. We want an official indication on each photograph of the name of the person concerned.

The second documentation should be a picture of the military prison, or the building to which we were taken in Diyarbakir, so that we know what it looks like and can show it to people outside Turkey.

Thirdly, we want the minutes that were taken by the military representatives who were present during our interviews with the eight prisoners.

Fourthly, we want to have clearly indicated the time and source of the Amnesty International information relating to the 17 persons who were alleged to have died in military prisons in Turkey.

We have been inspired in our consideration of this matter by our visit to Diyarbakir. We have also been inspired by sceptical questions put to us by journalists and by what Mr Leif Olsen said on Sunday evening when we were discussing this question in the Legal Affairs Committee. I beg the Turkish delegation to send us this documentation. If not, they will place not only us but themselves in serious difficulty.

I hope that we shall have a broad majority for the resolution. I think that we have reached a very important stage in our discussions on Turkey. We have not come to the end, but today we are closing a decisive stage. Development in Turkey in the near future - I would even say in the coming months - will decide what the next stage in our considerations will be.

Mrs van der Werf-Terpstra, a Vice-President of the Assembly, took the Chair.

The PRESIDENT.- The debate is ended. Voting on the draft resolution in Document 5208 and amendments will take place this afternoon at 3 pm.

7. MEMBERSHIP OF COMMITTEE

The PRESIDENT.- The following change is proposed by the German delegation in the membership of the Committee on Economic Affairs and Development: that Mr Kittelmann should be replaced by Mr Stavenhagen.

Are there any objections?

It is agreed.

8. DATE, TIME AND ORDERS OF THE DAY OF THE NEXT SITTING

The PRESIDENT.- I propose that the Assembly hold its next public sitting this afternoon at three o'clock with the following orders of the day:

1. Situation in Turkey

- Votes on the draft resolution contained in Doc. 5208 and amendments.

2. United Nations Convention on the Law of the Sea

- Presentation by Mr Haase of the report by the Legal Affairs Committee (Doc. 5194).
- Presentation by Sir John Osborn of the opinion of the Committee on Economic Affairs and Development (Doc. 5217).
- Presentation by Mr van der Werff of the opinion of the Committee on Culture and Education (Doc. 5221).
- Presentation by Mr Hardy of an oral opinion on behalf of the Committee on Regional Planning and Local Authorities
- Presentation by Mr Johannsson of the opinion of the Committee on Agriculture (Doc. 5202).
- Presentation by Mrs den Ouden-Dekkers of the opinion of the Committee on Science and Technology (Doc. 5198).
- Debate.

Does anyone wish to speak?

The next orders of the day are agreed to.

The sitting is closed.

The sitting was closed at 12.37 pm.

CONTENTS

1. Opening of the sitting
2. Minutes of proceedings
3. Attendance register
4. Meetings of committees
5. Debate procedure - lists of speakers
6. Situation in Turkey (resumed debate)

Speakers

Lady Fleming
Mr Blaauw
Mr Vial-Massat
Mr Hesele
Mrs Aasen
Mr Akarçali
Mr Mendes
Sir Anthony Grant
Mr Kittelmann
Mr Karakas
Mr Cardia
Mr Hardy
Mr Reddemann
Mr Inan
Sir Dudley Smith
Mr Ozarslan
Sir Geoffrey Finsberg
Mrs Kalaycioğlu
Mr Murphy
Lord Reay
Mr Margue
Mr Fourré
Mr Voyatzis
Mr Steiner
Mr Stoffelen
Mr Baumel
Mr Elmquist

7. Membership of Committee
8. Date, time and orders of the day of the next sitting.

BIL-4

8. WRITTEN DECLARATION

The President (Translation).- In accordance with Rule 48 of the Rules of Procedure, a written declaration (No. 108) relating to sport in South Africa has been tabled (Doc. 5220), which has been signed by nine members.

Any representative or substitute may add his signature to this written declaration in the Table Office, Room 1079. If any names are added, the declaration will be distributed again at the beginning of the next part-session (under Rule 48(3)).

9. SITUATION IN TURKEY

THE PRESIDENT (Translation).- The last Order of the Day is the presentation by Mr Steiner of the report from the Political Affairs Committee on the Situation in Turkey (Doc. 5208) and the presentation by Mr Stoffelen of the opinion of the Legal Affairs Committee (Doc. 5216).

The list of speakers closed at the end of this morning's sitting.

Forty-three speakers have indicated a wish to speak.

May I remind members that earlier this afternoon they agreed to observe a time limit of seven minutes on all speeches and ten minutes for the Rapporteurs. The debate will continue until 7.30 pm tonight and will be resumed tomorrow morning. The votes will take place at the commencement of business tomorrow afternoon.

Mr STEINER (Austria) (Rapporteur of the Political Affairs Committee) said that the report assessed the situation in Turkey, particularly its lack of democracy. It was not surprising that the general debate generated great emotion. Although there were different interpretations of the Turkish situation nobody could entertain any illusion as to the efforts needed to restore democracy. The Assembly should also remember those in prison in Turkey.

The analysis must be based on full respect for the Charter and concern for the interests of the Turkish people. He welcomed the fact-finding mission of the Legal Affairs Committee, which noted that some progress had been made, but not enough. The recent elections appeared unsatisfactory and the municipal elections had taken place according to a revised version of electoral law. Some provinces no longer had military law. The Assembly had to demand that there should be no political prisoners and that accused had the right of defence in court. The expression of a variety of opinions had to be accepted. The Turkish authorities had tried to correct the problem of torture in prisons by administrative measures. He welcomed the Grand National Assembly's setting up a committee of experts to look into Turkish prisons. Much needed to be done. One political party had been brought to court because of its programme.

The Council of Europe should monitor progress towards democracy. Martial law had to be abolished and human rights respected. Many who had voted in favour of validating Turkish credentials would hope for something to balance that in this debate. Turkey was moving on the right path. The resolution asked them to trust the Legal Affairs Committee and Political Affairs Committee to monitor and report back, taking account of the interests of the Turkish people and the principles of the Council of Europe.

Mr STOFFELEN (Netherlands) (Rapporteur of the Legal Affairs Committee).- As Rapporteur of the Legal Affairs Committee, I wish to evaluate the present situation in Turkey on the basis of the criteria of the European Convention on Human Rights. The Council of Europe is based on that convention and cannot and should not have double standards for the evaluation of parliamentary democracy and respect for human rights.

First, one must note that the facts of the preparation for the elections of November 1983 and the character of the Grand National Assembly are still the same as they were in January 1984. Only three of the 15 parties that wished to take part in the elections were authorised to do so. Moreover, there were serious restrictions on freedom of expression, association and assembly during the preparations for the election. For that reason, we adopted Resolution 803.

The Legal Affairs Committee and the Political Affairs Committee then asked the opinions of three constitutional experts on the new law on political parties, electoral law and trade unions and their conformity with the Statute of the Council of Europe and the European Convention on Human Rights. The experts expressed reservations, especially about the Political Parties Act.

Shortly after the elections to the Grand National Assembly and the forming of the government headed by Prime Minister Özal, the government decided to hold municipal elections with freedom for all political parties to take part and three conclusions can be drawn from the results of those elections. First, the Prime Minister's Motherland Party strengthened its already comfortable position. Secondly, nearly 43 per cent of the population of Turkey is not represented in the Grand National Assembly. Thirdly, bearing in mind the 10 per cent barrier, two parties represented in the Grand National Assembly are now in a rather weak position.

In talking of the freedom of political parties, we must express great concern about the investigation that has just started against the True Path Party. The Attorney-General has asked for the interdiction of that party. At the same time, SODEP has declared that new parliamentary elections are not wanted.

To avoid any misunderstanding, it is essential in a parliamentary democracy that political parties are free in their activities, expressions and manifestations. The only restrictions compatible with democracy are mentioned in articles 10 and 11 of the European Convention. It would be a great help if the Grand National Assembly would decide to change the legislation in that respect, especially the law on political parties.

The maintenance of martial law implies the suspension of several rights and liberties for the great majority of the population and is a serious obstacle to full restoration of democracy. During our sub-committee's visit, the Prime Minister stated that he shared the opinion that the maintenance of martial law represented an obstacle to the full restoration of democracy. Martial law has recently been lifted in 13 provinces and in the summer the decision will be taken to extend the lifting of martial law. Some members of the Grand National Assembly expect full abolition of martial law in about 12 months.

In this respect it is vital to change the present situation in which a person may remain in custody for 45 days without charge and without seeing his family or lawyer and the provision that there is no right of appeal if the sentence is shorter than six months.

On amnesty for political prisoners, there is no doubt whatever that the detention of a person for his or her opinion is contrary to the European Convention on Human Rights and there is no reason to doubt that there are many political prisoners in custody or in prison in Turkey. According to several sources, the lowest official number of political prisoners is 21,121 and some people believe that the true figure is far higher. In any case, an amnesty is needed for persons who did not commit acts of violence and who are in custody or prison for their opinions. The position of members of the Peace Movement Association and the trade union DISK is a cause for especial anxiety. Yesterday a number of Turkish people presented us with more than 100,000 signatures to a petition expressing worry about the position of the Kurds in Turkey and requesting an amnesty for political prisoners. I understand and share that worry and we, too, request an amnesty for all political prisoners.

It is clear that some articles of the Turkish penal code, taken from the Italian penal code during the fascist regime, should be abolished. Those articles have been and are used to accuse members of the peace movement and DISK of activities and expressions that are completely free in every normal democracy. A change in that legislation and in the constitution is probably needed to change that. If so, we hope and expect that the Grand National Assembly and the government will do that. Some members of the Grand National Assembly told us that several proposals were under consideration for an amnesty for political prisoners and the Prime Minister declared that the government was considering conditions for such an amnesty this year.

During our visit, two small delegations obtained permission to visit two military prisons - Diyarbakir and Mamak. I wish to stress some aspects of conditions in the prisons. The number of persons in custody or in prison is so great that it apparently greatly exceeds the capacity of the detention facilities and prisons. There are many allegations of torture taking place in police stations, detention houses and prisons. We heard some shocking

examples of this. The Government and the Grand National Assembly are willing to investigate allegations and promise, insofar as they can promise, the severe punishment of persons guilty of torture or inhuman treatment. The food, apparently, is not a problem, but in some prisons such as Metris there is no daily opportunity for inmates to go into the open air. It is worrying that there is no free contact between lawyers and accused as a prison authority is always present, and a matter of even greater concern that persons are held in custody for three, four or five years without trial.

On freedom for lawyers, reliable sources in our countries and information given by lawyers with regard to the Peace Movement Association, DISK and other political trials, there are serious obstacles and problems for the defence. We heard of many shocking examples, inter alia, the arrest of lawyers during trials because they were accused of making illegal political propaganda; in case of protest against the procedure, the accused was sometimes removed from the sitting. That is a serious matter. It is essential for the defence to be free in its contact with clients during preparation and presentation of the defence. It is essential for the defence to be free in its contact with clients during preparation and presentation of the defence. I have already mentioned freedom for political parties and trade unions. The only permitted trade union is declared not to have the right of free collective bargaining or, for example, to celebrate 1 May. I hope and expect that members of the Grand National Assembly understand how important it is in a parliamentary democracy that there is freedom for trade unions. It is clear that the freedom of the press is less restricted than some months ago. There is self-censorship to avoid such problems as closure of a newspaper or arrest of a journalist.

It is undeniable that great progress towards the full restoration of parliamentary democracy and full respect of human rights has been made in the past few months. There has been a part lifting of martial law, the prospect of an amnesty for political prisoners, a certain amount of freedom for political parties, a firm willingness to investigate and stop torture, a firm willingness of members of the Grand National Assembly and the government fully to restore parliamentary democracy and guarantees of respect of human rights.

Nevertheless, a long and serious road must be followed to achieve those guarantees and normal parliamentary democracy. According to the standards of the European Convention on Human Rights, Turkey is not yet a normal parliamentary democracy. As has been said, many measures are indispensable if normal parliamentary democracy is to be restored. Whether one likes it or not, the only institutions that can restore full compliance with the principles of the Council of Europe are the Government of Turkey and the Grand National Assembly. We must help and encourage them through critical dialogue and discussions so that all measures needed for that full restoration of parliamentary democracy and respect of human rights are taken. For the sake of the Council of Europe's principles, we must engage in a critical dialogue with interest and respect. We must report on the results before next May to take another decision and see whether Turkey has done what it promised to do - fully restore parliamentary democracy and respect human rights.

Sir Frederic BENNETT (United Kingdom).- As I had the privilege to speak yesterday on behalf of the European Democratic group, I hope to do my best to comply with Mr President's earlier request not to take the full quota of seven minutes' speaking time.

I have listened with interest to what Mr Stoffelen has said. We must be careful not to be too self-righteous if we start the annual monitoring of one state's advances towards completion of democratic government. We might spend a little time considering our own blemishes rather than concentrate on just one country as though it were unique. I do not accept that we are all perfect. The monitoring must be applicable to any state that we think is falling behind the standards we expect.

I have been here several times when we have renewed or extended membership to a delegation to the Assembly. Presumably, those who lost the vote yesterday are as democratic as the rest of us, so it should be said on behalf of all of us, irrespective of how we voted, that, as colleagues whose credentials have been validated, we extend a warm and cordial welcome to our Turkish friends, irrespective of what political party they belong to. I shall do that, even if no one else will.

Mr Ludwig Steiner tried to explain the general attitude to the report when we sat until well after 12 midnight. The consensus was not a happy one but we reluctantly reached an understanding that would enable the Turks to rejoin the Council of Europe. I do not like the word "restoration" when appended to full democratic rights in Turkey because anyone who knew the conditions that existed there before the generals took over knew that there was chaos and that democratic rights were a farce. It is not a case of restitution of rights suddenly lost, because they did not exist. We are dealing with an attempt to establish full democratic rights.

I am not speaking in an official capacity but I and my friends believe that, albeit reluctantly, there was consensus on the report and it must be accepted without further amendment. We have honoured our part of the bargain and have tabled no amendments. We are prepared to support what we voted for the other night - the text produced by Mr Ludwig Steiner and Mr Baumel with Mr Stoffelen's opinion. If, as has happened often before, there are to be amendments, we shall honour our bargain but our pledge to continue to support the consensus will lapse, because, if amendments that break the consensus are introduced at the last minute, I must claim that we are free to decide our attitude towards the report.

The report does not show nearly sufficient appreciation of Turkey's progress towards attaining more than the bogus democracy that existed before. A few complimentary remarks are thrown in, but that is all. Those of us who visited the country when it was faced with civil war, anarchy, daily murder, assassination and the rest regard it as almost miraculous that the Turks have achieved so much in such a short time in the face of conditions which looked as though they would lead to complete breakdown and disruption of a member of the Council.

Nor does the report show sufficient appreciation of the dangers of renewed terrorism that face Turkey. While we talk here about hoping, as do I, that martial law will be lifted, it is well known to the intelligence services of all western countries that arms and ammunition are still being shipped across the Black Sea to foster fresh trouble and chaos in Turkey.

Some of our criticisms ought to be directed towards those who are indulging in this operation rather than towards the Turks who are doing their best to prevent its worst effects.

I have waited a long time - I do not know whether the gentleman concerned is here - but I did not think that in my life I would ever have to sit and listen to a distinguished communist delegate giving me a lesson on the virtues of a pluralist democracy, respect for human rights, trade union freedoms, and so on. I listened with absolute fascination to an exposition of the communist attitude towards pluralism. The gentleman concerned gave us a lecture on the values of true democracy, freedom of human rights, no concentration camps, no prisons and no restrictions on political parties standing against one another. I wonder whether, before he made that speech, he cleared it with Moscow.

Mr VECCHIETTI (Italy) reminded Sir Frederic Bennett that the Italian communist party had broken away from the USSR on human rights issues. It was true that parliamentarians had been elected in Turkey, but the Turkish Constitution was far from democratic. The state had the power to exclude parties and candidates from elections. There was no proper respect for human rights in Turkey. In both matters Turkey fell short of the requirements for membership of the Council of Europe.

What democracy there was was subject to the whim of the military authorities. The *raison d'être* of the Council of Europe was to defend pluralism and human rights. If Turkey were given a waiver, it could at best be seen as an act of faith in the democratic force for change in Turkey. However, he believed that such a waiver would legitimise the military regime and discourage the true Turkish democrats inside and outside Turkey. After all, the stance of the League of Nations had helped Mussolini.

While a police state allowed no freedom of association, trade union membership, religion, parliament or government, there could be no confidence in it. The historical analogies sometimes used with Spain, Portugal and Greece were not valid. The Assembly at best was asking the Turkish regime to destroy itself. He hoped that it would, but history taught him that such things did not happen.

Mr ANASTASSAKOS (Greece).- Today in this very important debate in the Council of Europe charges are once more being brought against the military regime of Turkey. All of us who are interested in the future of the peoples of Turkey had hoped that this debate would not need to be repeated. We had all hoped that democracy in Turkey would have been re-established by now.

However, terrorism, prosecutions, disappearances, executions, torturing, deaths and the existence of martial law, as well as imprisonments, are more than sufficient proof that the military regime still holds the reins of power. Nobody was convinced to the contrary by the passing of the pseudo-Constitution and by the so-called parliamentary as well as municipal elections held under military law, and only among parties chosen by the Turkish junta. The guise of a parliament under a dictatorship fell, and the real face of the dictator-generals was soon revealed. The Turkish Minister of Justice has

announced that 75,000 people are detained in the civil prisons of Turkey for political reasons, while, as has been accepted by the army headquarters, 63,000 others are behind bars in military prisons, under inhuman conditions. In the meantime, martial law is still in force. After all this, the Turkish junta claims that there is a parliament and an elected government. However, as we know, only those approved by General Evren and the other dictators were eligible candidates.

At this point I should like to remind the Assembly of Resolution 803 of 1983, which was passed with an overwhelming majority last September. In paragraph 12 it

"Declares that, under present conditions and on the basis of information now available, the parliament which will be elected in Turkey on 6 November 1983 will not be able to be considered as representing the Turkish people in a democratic manner, and could not therefore validly constitute a delegation to participate in the work of the Parliamentary Assembly of the Council of Europe."

Undoubtedly we are bound by this resolution. If the Parliamentary Assembly of the Council of Europe that passed it were to accept the Turkish representatives sent by Evren's junta, it would violate its own resolution. This could not be done, and such an action would also have the following consequences. First, it would be a provocation to the people in Turkey who struggle to overthrow the military regime. Secondly, it would mean a rejection of democratic principles. Thirdly, it could seriously harm the prestige of the Council of Europe, and particularly the Parliamentary Assembly, which consists of deputies elected by real democratic procedures and who belong to free, democratic, national parliaments. If we accept the Turkish junta, the Council of Europe cannot continue to be the trustee of democratic principles. It cannot violate its own Statute.

We certainly cannot ignore the recent resolution of 6 December 1983 of the European Convention on Human Rights. In this, the charges of violation of human rights in Turkey today, laid by five European member countries, were confirmed.

To accept the representatives of the Turkish junta, would be to ignore these violations and thereby provide a proof of acceptance of these illegal actions. We would also encourage the Turkish junta to continue suppressing the people of Turkey while at the same time we would discourage and disappoint all those who expect and hope that we will offer them assistance.

The Turkish regime also violates international law and continues to infringe the rights to sovereignty, independence, and the territorial integrity of the Republic of Cyprus by illegally holding under military control 37 per cent of the territory. This regime also threatens peace in the Mediterranean area, since it promotes plans for partitioning Cyprus by giving military and political support to the declared pseudo-state of the leaders of the Turkish Cypriot community, and by illegally exchanging ambassadors.

Turkey should prove by its actions that it is on the way to democracy. It should lift martial law, fully respect human rights, abolish terrorism, grant a general amnesty, empty its prisons and permit a return to free and real political activity. Unfortunately, up to now, no progress has been made towards these ends. The regime becomes increasingly repressive. New laws on phone conversations and personal mail control are to come into force. Meanwhile more hunger strikers are dying in the Diyarbakir mediaeval prisons.

A few months ago the conclusions of the Conference for Democracy, which was organised by the Council of Europe, enlightened the world during a period when violations of human rights were unfortunately multiplying.

The Turkish junta is asking to be accepted as democratic. It is our duty to reject this provocation. For all these reasons, and under present conditions, I strongly believe that there is no place for the representatives of the Turkish dictators here in this Parliamentary Assembly.

Mr van den BERGH (Netherlands).- I shall try to be brief. I express my appreciation to both the Chairman and the Rapporteur of the sub-committee to which I belong which visited Turkey and made a report. I have nothing to add to the content of the report and the resolution. I could not agree more with what is said. It is, and was, a fair reflection of what we heard, saw and tried to analyse.

I feel that the real political issue of Turkey was solved yesterday, with the vote on the credentials. There is no formal link between our debate today and the acceptance of the credentials, but I should like to say a few words on the subject because some of us still agree with what I said a year ago in this Assembly. I said then that the situation in Turkey was such that there could no longer be a place for Turkey as a member of the Council of Europe. I said that I was in favour of the expulsion of Turkey from the Assembly if no further progress was made towards the restoration of democracy.

I therefore say - and this is an essential point in the resolution drafted by the Political Affairs Committee and the Legal Affairs Committee - that the fact that we have accepted the credentials does not mean that we believe that the situation in Turkey represents a victory for democracy. No, it is not yet a victory for democracy. The answer of a number of us yesterday to the acceptance of the Turkish credentials was "Yes, but ...". Therefore, I think that it is a very good idea that the sub-committee should continue to monitor the situation in Turkey, taking a close look at the implementation of the conditions correctly formulated in the resolution.

I agree with the Rapporteurs that there are still many serious deficiencies in parliamentary democracy and human rights in Turkey. I have told our Turkish colleagues in private, and I repeat it in public, that there is no doubt about these deficiencies. There has been important progress, and everyone on the sub-committee saw and admitted it, but my position as chairman of the sub-committee is that as long as legal procedures are not sufficient, as long as there are political prisoners in Turkey the answer must be "Yes, but ..." for the moment.

In my view, a terrorist is not a political prisoner. A political prisoner is in prison only because of his political beliefs and convictions. There are too many political prisoners in Turkey's prisons. They include trade unionists, members of the peace association and so on.

A test case for improving the situation in Turkey would be whether the Turkish Government and Parliament were prepared to grant a general amnesty for those in prison for their political beliefs and opinions. That must be the substantive test of any progress. I think we have indications that that can happen, but if it does not I shall doubt and will regret, even, the way that I voted yesterday in the Assembly.

As I see the resolution, it means "Yes, but....". I have looked at the situation four times in three years and I have found important differences. When I travelled throughout Turkey a couple of times before the last occasion, everywhere I found a blunt denial of the lack of democracy, of the violation of human rights. Whether the progress is sufficient or not - and I think that it is not - I have to say, in all fairness to our Turkish colleagues, that we found a lot of understanding for the things that we were criticising.

The important thing about this debate is not that we express again what we want. Our Turkish colleagues know what we want, and we shall repeat it. The significance of the debate, as of yesterday's vote, is that the Turkish parliament, which is not an adequate parliament, accepted a commitment from our side to go to full democracy, and now the commitment for what has to be done is on the Turkish side. If there is no important further progress in this coming year - and I guarantee that we will monitor that progress closely - I shall certainly regret my vote yesterday. I hope that there will be no reason for such regret.

Mr SÈNES (France) believed that the recognition of the credentials of the Turkish delegates by the Assembly would be a further encouragement to Turkey to continue towards full democracy. However, he had some questions to pose to the Turkish delegates on the matter of continuing violations of democracy. For example, when would there be an amnesty for political prisoners, a complete cessation of torture, recognition of the rights of minorities - especially the Kurds - and fully established trade unions? When would all citizens be free to stand and vote in free and genuinely democratic elections? He urged the Turkish delegates to take immediate steps to end the illegal occupation of Cyprus. Finally, he hoped that the bonds of friendship between Turkey and the rest of Europe, as demonstrated in the recognition of the delegates' credentials, would bring about the full re-establishment of democracy.

Mr BLENK (Austria) hoped that the previous day's decision to ratify the credentials of the Turkish delegates would be supplemented by an even firmer vote in favour of the draft recommendations before the Assembly today.

We have studied the two reports with great interest and we are all convinced that democracy and human rights have not been restored or re-established in the state of Turkey. There is no doubt about that. If anyone is in any doubt about it, the resolution that we all intend to support states clearly that human rights are still being violated, that an amnesty is necessary and that the Turkish authorities must be asked to re-establish political pluralism, trade union freedoms, freedom for political parties, freedom of association and freedom of the press. The Danish delegation also strongly supports the statement in the resolution that a vigorous stand must be taken against all cases of torture, that conditions in the prisons must be improved, that all allegations of torture must be investigated and that the rights of defendants must be respected.

The draft resolution shows that something is rotten in the state of Turkey and asks the Turkish authorities to do something about it. I have the agreement of all members of the Danish delegation to state that if nothing is done by Turkey before the next part-session of this Assembly, something will have to be done by the Assembly itself. We must remember that the Council of Europe was established to safeguard democracy and human rights, and democracy and human rights have not yet been re-established in Turkey.

As I said yesterday, we all recognise that there has been some progress and that some people in Turkey are trying to improve the situation, but we are not satisfied with the results so far. Therefore, after voting in favour of this resolution we shall expect something to be done in Turkey, and if nothing is done there we shall all act accordingly.

Mr LIED (Norway) welcomed the presence of Turkish delegates taking part in the debate. The best help towards Turkey's return to democracy was to have members of the Turkish Assembly here. The report had found that there had been some progress in Turkey and substantial efforts had been made. News was favourable in some areas but bad in others. It was important to adopt the draft resolution. The Statute of the Council of Europe had to be used as well as the Convention on Human Rights to carry out the difficult task of restoring democracy and human rights in Turkey.

Mr BAYULKEN (Turkey).- I shall speak with frankness and candour so that we come to know each other better and understand the trials which Turkey has undergone and is still undergoing, how you can help us and how we can co-operate with you. I hope that my frankness will be accepted, as it comes from a man who, more than ten years ago, served as Foreign Minister in the Turkish Government which put Turkey back on the track of democracy between 1971 and 1974. I hope that my colleagues will bear with me if I try to enable them to grasp the truth of what is going on in Turkey and what we shall do.

The situation in Turkey was far from ideal but developments over recent months, as the Rapporteurs had remarked, had demonstrated that there was movement in the right direction. Any development would be closely surveyed but it was necessary to move towards pluralistic democracy and to free political prisoners.

When previous Turkish colleagues had been in the Chamber they had always said that the imposition of martial law had been indispensable and had asked the Assembly to help them resolve a dangerous situation. The history of Turkey showed that the armed forces had always been called in to restore order, so this was not a normal military coup. He welcomed and supported the resolution while calling for an unemotional attitude.

Mr NEUMANN (Federal Republic of Germany) said that 39 years ago Germany had been at the end of a period of torture and mass slaughter. Many had escaped the rigour of the Nazi regime through the help of friends abroad. The Assembly ought to help Turkish prisoners in the same way to be free more quickly.

A German delegation had followed in the steps of the fact-finding mission, visiting the same prisons, and had compared them with concentration camps in Nazi Germany. They feared that too many positive findings by the Council of Europe would be like the positive findings by the Red Cross after visiting some concentration camps in Nazi Germany. Conditions in Turkish prisons were appalling, with torture, beatings, and generally brutal treatment. Such news should not become routine. Turkish conditions were contrary to the provisions in the Council of Europe's statute and there was no reason for any optimism. For example, there was a harsh rule banning political parties and trade unions. Prisoners had no possibility of representation. The press was not free and there was a need for an amnesty for political prisoners.

Mr ELMQUIST (Denmark).- I do not know whether such a point of order is within our statutes, but it is difficult to enter into any dialogue with Mr Neumann as I am afraid that he is not listening. If it is possible within our statutes, it would be helpful if he would establish exactly what he was talking about when he referred to the Council of Europe delegation. Was he referring to the Council of Europe delegation to Turkey or to the three persons who went to Diyarbakir? If so, that should be annexed as a comment to Mr Steiner's report.

Mr NEUMANN said that he had referred to a report in the German press about a German delegation which had followed the delegation which went to Diyarbakir. It was always possible for a false picture to be presented to any fact-finding mission.

Mr BUDTZ (Denmark).- Yesterday I had the honour to speak on behalf of the Socialist group. Today I have the honour to speak on behalf of the Danish delegation and all the parties represented in that delegation. Yesterday we were not united, but that chapter is now closed. Today we are united on the basis of the resolution presented by the Rapporteurs.

It is generally thought in Europe that Turkey has suffered from terrorism. That is true. Shocking terrorism has killed thousands of men, women and children indiscriminately. Security officers and those who try to maintain order have been killed. Was that the only form of terrorism from which we suffered? Terrorism has been a cover-up for a plot to destroy Turkish democracy and to take Turkey away from the Council of Europe and other European institutions to another place where things are different. No Turkish delegate wants that.

To explain the aim of that terrorism I shall not go through many documents, but will merely relate the verdict of the Turkish nation. The Council of Europe is a democratic institution. The nation's verdict is the one to which we must refer. I speak of the Turkish Constitution. More than 95% of the Turkish electorate went to the polls, and 91.5% accepted the preamble to our constitution, which describes the dangers that we face. It refers to

"the operation carried out on 12 September 1980 by the Turkish Armed Forces in response to a call from the Turkish nation, of which they form an inseparable part, at a time when the approach of a separatist, destructive and bloody civil war unprecedented in the Republican era threatened the integrity of the eternal Turkish nation and motherland and the existence of the sacred Turkish state".

That was the danger. It was much more important than the killing of several thousand people.

I should like to remind you of circumstances before 1980. Did we have an oppressive regime? We had one of the most liberal constitutions of members of the Council of Europe. Is it not true that the people went to the polls and elected their representatives? Did not many political parties, of all colours, exist in Turkey, except those prevented by the 1960 Constitution? Did not many governments come and go? There were the governments of Mr Ecevit, Mr Demirel and others. Some stayed for no more than 15 days. There were perhaps 20 governments in that time. What was wrong? There was nothing wrong with the Constitution or the institutions; there was a plot to take Turkey away from democracy. Please remember that I say all this having served in three governments between 1970 and 1974 as Foreign Minister and having been Chairman-in-Office of the Committee of Ministers of this august body.

I should like to draw attention to the goals of our Constitution. It is not possible to accuse or criticise us so severely without knowing what the overwhelming majority of the Turkish nation decided in 1980. A distinguished statesman once said that he was sick and tired of pleading on behalf of so and so. Please do not put us in such circumstances.

I shall quote important parts of the Turkish nation's goals as enshrined in the Constitution. It refers to

"The determination to safeguard the everlasting existence, prosperity and material and spiritual well-being of the Republic of Turkey, and to ensure that it attains the standards of contemporary civilisation, as a full and honourable member of the world family of nations;

- Recognition of the absolute supremacy of the will of the nation, and of the fact that sovereignty is vested fully and unconditionally in the Turkish nation and that no individual or body empowered to exercise it on behalf of the nation shall deviate from democracy based on freedom, as set forth in the Constitution and the rule of law instituted according to its requirements."

Many will say that the rule of law is what we must respect and abide by.

The PRESIDENT said that the speaker's seven minutes were up. He would allow one further minute.

Mr BAYULKEN asked for 15 minutes in order to be able properly to explain the situation in Turkey.

The PRESIDENT said that he could not allow more than one additional minute.

Mr BAYULKEN.- I should like to state that in Turkey the judiciary is independent. It takes orders from no one. There are judges in Turkey.

Secondly, our military judiciary is in the same category. It does not take orders from anyone.

Thirdly, 47 million Turkish citizens are protected by law and the Constitution. Only the culprits who commit crimes are prosecuted.

Fourthly, there has been some criticism regarding the prisons and the treatment of prisoners. When there has been any case of maltreatment, torture or any other variation from the proper rules, those concerned have been prosecuted, as has been made clear in Mr Steiner's report.

Please remember that in some countries of the Council of Europe there are many instances of maltreatment of prisoners. I can, if necessary, give the names of 26 Turkish citizens who died ...

The PRESIDENT said that the speaker's time was more than over and that there were other Turkish speakers on the list.

Mr BAYULKEN.- We will do our best to co-operate with our colleagues and this august body to bring democratic responsibility back to Turkey. We will do it not only because we want to be with you, but out of respect for ourselves, because of our vocation for Europe and our dedication to democracy.

Mr HARDY (United Kingdom).- On a point of order, Mr President. I waited until Mr Bayülken sat down. However, I believe that it is appropriate that a serious point of order should now be made.

Some of us have already suffered from the changes in the rules this week. The changes in the rules apparently allow for someone to be brought forward. When others restrict their speeches to seven minutes, or less - several speakers have taken appreciably less than seven minutes - one can understand your being eager to ensure that the Turkish case is put, and it is right that it should be put. I should not have risen on a point of order if Mr Bayülken were the only Turkish speaker, but there are seven Turkish names on the list. I suggest that it is wrong that someone should be able to take, and in fact demand, 15 minutes when seven minutes is clearly displayed. I think that other members in this Assembly will share my view. If we are to change the rules, we must try to ensure that they are applied fairly, if those rules make it possible for fairness to apply.

The PRESIDENT said that he agreed with Mr Hardy. There were other Turkish speakers later in the debate.

Mr ALEMYR (Sweden).- I shall be very brief.

I congratulate the two Rapporteurs, Mr Steiner and Mr Stoffelen, on their good work on a delicate and difficult subject.

The reports of the two Rapporteurs give evidence that the situation in Turkey has improved in recent months. I recognise that the Turkish authorities have started a process which, we hope, will lead to the restoration of democracy. However, the present situation is unsatisfactory and incompatible with the Statute of the Council of Europe.

It must be emphasised that the Turkish parliament was elected on an undemocratic basis with the participation of only three political parties. Therefore, that parliament is not representative. This criticism of the parliamentary elections last year is only partially mitigated by the conditions in which the municipal elections took place in March.

The Turkish parliament can only acquire a true representative character through new elections allowing full participation by all sectors of political life.

Apart from the parliamentary situation, general conditions in the country also leave room for questions. Martial law prevails in a number of provinces. Ongoing mass trials and persecution of trade union leaders are reasons for concern. Freedom of expression is limited. The reports on conditions and the practice of torture in certain prisons are alarming. Turkey could be categorised as a guided democracy. That is not enough for the Council of Europe. For that reason, I think it was premature to accept the credentials of the Turkish delegation to our Assembly. We should have asked for more convincing measures by the Turkish authorities and further proof of their commitment to democracy before welcoming their delegation to our Assembly. However, a vote has now been taken and the credentials have been accepted. Therefore, we should leave the discussion of credentials and confine ourselves to evaluating and keeping the situation in Turkey under review.

I believe, and have always maintained the view, that the Council of Europe should play a constructive role when discussing the situation in Turkey. Therefore, I support the main thrust of the resolution prepared by the Political Affairs Committee. I support it because it puts to the Turkish authorities a number of suggestions which are aimed at restoring democracy in Turkey. It urges the Turkish authorities to strive for the respect of human rights, to continue the normalisation of the country and, inter alia, to abolish martial law, proclaim an amnesty, introduce political pluralism, trade union freedom, freedom of association and freedom of the press.

I hope that when this Assembly meets again in the autumn the situation in Turkey will have improved.

Mr ALEGRE (Portugal) said that the Assembly faced a dilemma: should it sever links with Turkey, or hope to encourage democracy by maintaining them? The previous day's decision to validate the Turkish credentials had laid heavy responsibilities both on the Assembly and on Turkey.

He did not know whether true democratisation was being witnessed or merely a bluff. There could not be two levels at which democracy operated, and there should be no acceptance of part democracy as appropriate to certain states.

The Assembly should maintain pressure on the Turks to clarify their intentions and to bring about a state of affairs where mass arrests, torture and other occurrences incompatible with democracy came to an end. Turkey should remain a standing issue for the Assembly's consideration.

He generally agreed with the draft resolution, though he would have preferred certain minor drafting changes. He recognised that the wording of the resolution reflected necessary compromises. He also supported the proposed amendments.

It was his hope that the fruit of full democracy would be borne. Until then the Assembly should not compromise its stand on democratic principles.

Mr PINI (Switzerland) did not think that each and every state in the Council of Europe had achieved the highest possible condition of democracy. Indeed, such a state of perfection was indefinable. All democratic societies were in a process of development.

The March elections had been a stage in the process of the democratisation of Turkish society. The western model of democracy had only recently been introduced into that country since Turkey was in many ways as much an eastern as a European culture. By recognising the credentials of the Turkish delegates the Council of Europe had opened the door to a struggling democracy, and in a like manner it should slam the door in the face of any dictatorship. The report recognised that more work needed to be done but a vote in its favour would set the seal of solidarity between the Council of Europe and those who were struggling to establish full democracy in Turkey.

Mr MARTINEZ (Spain) saw the text of the report as a worthwhile achievement in achieving a position acceptable to the broad spectrum of political opinion in the Assembly. Although he had himself voted against accreditation of the Turkish delegation, he now accepted the decision of the majority, and indeed welcomed the fact that the resolution of the question of validation made it possible to enter into a more wide-ranging discussion of democracy in Turkey.

Much work still remained to be done before democracy in Turkey conformed absolutely, not relatively, to the principles of democracy espoused by the Council of Europe. The acceptance of their credentials should be seen by the Turkish delegates not as a victory but as a challenge. They had been invited to prove that they were true democrats.

When they voted in favour of this draft resolution, as he himself intended to do, the members of the Assembly would be giving their support to the struggle of the true democrats in Turkey.

Mr FREESON (United Kingdom).- Before I came to Strasbourg I was approached by Turks living in my constituency in London who expressed their anxiety for their friends and families at home, and I speak for those constituents as well as for myself today. I speak in sadness not in anger, and as a willing friend of Turkey. I speak in sadness, too, as a fairly new member of this Assembly because I do not think that we have so far enhanced our reputation in the matter of Turkey. I say that not in reference to the reports before us, but in reference to past conduct.

There have been whiffs of double standards and self-deception in some quarters of the Assembly on this issue, but we may yet regain our standing if we act vigorously and clearly on the issues outlined so well in the reports before us. Let us all act as parliamentarians, not as representatives of national governments and military alliances. Am I naive in thinking that this is not too much to ask as genuine conduct in all quarters of this Assembly?

Turkey's government asks to be viewed by western democratic standards, as evidenced by its membership of this Assembly, which has been confirmed. So be it. Every step towards democracy is to be welcomed. The recent local government elections strengthened the Turkish Government's standing and were in themselves a move towards greater democracy, but they did not give democratic validity to the Grand Assembly represented here.

Those and other moves reported or forecast by the Political Affairs and Legal Affairs Committees do not give democratic validity to the Constitution approved in November 1980. Nor do they make democratic the series of laws on the press, education, trade unions, political parties and other associations, passed by the military authorities before the Grand Assembly elections.

Those laws and the Constitution have given Turkey's President and his presidential council unprecedented powers of intervention. With martial law still governing most of the country, democracy has not been re-established. All regional and provincial governors are directly responsible to the President and possess powers like those of martial law commanders. The President can proclaim a state of emergency in "grave economic crisis". Among other things, the governors can suspend the activities of bodies such as trade unions and ban newspapers.

In theory, Turkey's Constitution and laws recognise certain rights and freedoms but they lose much - perhaps most - of their meaning through numerous prohibitions and exceptions. The military authorities ensured that it would be extremely difficult to change those laws. Any constitutional change needs a two-thirds majority in parliament as well as presidential approval, but as all parties and individual candidates were vetted to such an extent that they were virtually hand picked by the authorities there is, regrettably, little likelihood that the Grand Assembly will alter the generals' legislation in the foreseeable future. I hope that I shall be proved wrong on that.

Although previously forbidden parties were allowed to participate in the recent local elections, one of them has since been put under investigation and is now virtually banned.

Turkey's continued acceptability within democratic organisations such as ours must depend on a radical change in its position on human rights. The continued imprisonment of thousands of political prisoners and the persecution of trade unionists and peace campaigners must end.

According to my Turkish constituents, relatives who recently protested at the deaths of prisoners in a military prison were themselves arrested or put under surveillance. Censorship stopped anything about these protests appearing in the press. I am told that the Justice Minister was not even allowed to inspect the prison afterwards - that was forbidden by the martial law authorities.

Since the November elections, some members of parliament - God bless them - have appealed for at least a partial amnesty for political prisoners and for the abolition of capital punishment, but I understand that there was a quick ban on published comment on the issue.

There cannot be democracy while there are political prisoners and such restrictions on comment and discussion exist. Arrests of trade unionists, students and political activists - I do not refer to terrorists - continue, as do mass trials of trade unionists and passing of death sentences. Investigations into accusations of torture are hampered by the Red Cross not being allowed in and by refusals of the right to confidential interviews with lawyers and prisoners. Until those things are put right, there is no democracy. There must be basic human freedoms.

Turkey's Government's actions outside her borders must also be condemned. Northern Cyprus continues to be occupied by the Turkish army and now Turkey has recognised the so-called Turkish Republic of Northern Cyprus. That is the only example of a Council of Europe member state occupying and sponsoring the illegal take-over of a fellow member's territory. There, too, many people have gone missing. Their fate remains unknown to the outside world, despite many attempts to find out.

All of these matters demand the continued attention and action of the Council of Europe. While they continue, we are all besmirched.

Mr BAYÜLKEN (Turkey), on a point of order, said that Mr Freeson had said that Turkey had occupied the north of Cyprus. That had nothing to do with the debate and was out of order.

Mr CAVALIERE (Italy) said that people had been speaking on the basis of propaganda rather than knowledge. He had read a propaganda leaflet claiming that the situation in Turkish prisons had deteriorated since the November election and become unbearable, with the wives and mothers of prisoners being themselves imprisoned. He had been there, talked to people in all circles, and seen with his own eyes. Even the two or three prisoners who had claimed to have been ill-treated said that in the last six months there had been no cases of ill-treatment.

Propaganda was poisoning judgment and it was clear from its references to America and from a picture of demonstrators raising clenched fists from what source the propaganda came. The Assembly had to be cautious about what was said about Turkey and remember that terrorism had almost succeeded in starting a civil war. The Council of Europe had to stand by Turkey to help her over a difficult crisis.

The PRESIDENT said that the debate was adjourned and would be continued on the following day. Votes would take place at 3 pm.

10. MEMBERSHIP OF COMMITTEES

The PRESIDENT announced certain changes in the Federal Republic of Germany's membership of the Committee on Science and Technology.

11. DATE, TIME AND ORDERS OF THE DAY OF THE NEXT SITTING

The PRESIDENT (Translation).- I propose that the Assembly hold its next public sitting at 10 am tomorrow, with the following orders of the day:

1. Situation in Turkey

Resumed debate on the report of the Political Affairs Committee (Doc. 5208) and the Opinion of the Legal Affairs Committee (Doc. 5216).

Does anyone wish to speak?

The next orders of the day are agreed to.

The sitting is closed.

The sitting was closed at 7.30 pm

CONTENTS

1. Opening of the sitting
2. Minutes of proceedings
3. Attendance register
4. Defence of democracy against terrorism in Europe
(completion of votes)
5. Time limits for debates
6. Election of the Secretary General
7. Communication from the Committee of Ministers to the
Assembly
8. Written declaration
9. Situation in Turkey

Speakers

MM Steiner
Stoffelen
Sir Frederic Bennett
MM Vechietti
Anastassakos
van den Bergh
Sénès
Blenk
Neumann
Elmquist
Budtz
Lied
Bayülken
Alemyr
Alegre
Pini
Martinez
Freeson
Cavaliere

10. Membership of committees
11. Date, time and orders of the day of the next sitting.

BIL-3

The sitting was opened at 3.01 pm, with Mr Ahrens, President of the Assembly, in the Chair.

1. OPENING OF THE SITTING

The PRESIDENT.- The sitting is open.

2. MINUTES OF PROCEEDINGS

The PRESIDENT.- The minutes of proceedings of the last sitting have not yet been distributed. They will be considered at the next sitting of the Assembly.

3. ATTENDANCE REGISTER

The PRESIDENT.- The names of those Substitutes present at this sitting, of which notice has been given to the President, will be published with the list of Representatives appended to the Minutes of Proceedings.

4. EXAMINATION OF CONTESTED CREDENTIALS

The PRESIDENT.- The first order of the day is the presentation by Mr Butty of the Report from the Committee on Rules of Procedure on the contested credentials of the delegations of Cyprus and Turkey (Doc. 5214).

I remind you that this matter was referred to the Committee on Rules of Procedure in accordance with Rule 6 (4).

Its report concludes, in the words underlined in paragraphs 7 and 9, by advising the Assembly to approve the credentials of the Cypriot and Turkish delegations. Accordingly, at the end of a joint debate the Assembly will vote twice - once in respect of each delegation - on the recommendations underlined in paragraphs 7 and 9 of the report. Twenty-three members have indicated a wish to speak.

May I remind members that yesterday the Assembly decided to limit this item to one hour. The general debate will end at 3.45 pm to enable the votes to take place within that time. Speakers in the debate will be limited to five minutes and the Rapporteur to ten minutes. In this debate exceptional measures have been taken.

I now call the Rapporteur, Mr Butty, who has ten minutes.

Mr BUTTY (Rapporteur of the Committee on Rules of Procedure) (Switzerland) said that the major event since the last report had been the unilateral declaration of independence by the Turkish community in Cyprus. That had already been condemned by the Council. Therefore, the Committee on Rules of Procedure had felt able to agree that the Assembly should approve the credentials of the Cypriot Representative and Substitute. The Committee regretted that the positions of two Representatives and two Substitutes remained vacant and that the recommendation that there should be two Representatives from the Greek community and one from the Turkish community and a similar number of Substitutes had not yet been acted upon.

The challenges to the credentials of the Turkish delegation had been differently based. The reason involved the validity of the parliamentary electoral process. The majority of the committee believed that participation in the Council of Europe by the Turkish delegation would encourage the firmer establishment of democracy in Turkey and that to deny credentials to the Turkish delegation would result in an anomaly whereby it was represented on the Committee of Ministers but not in the Assembly.

Consequently, in the hope that participation would encourage the growth of democracy in Turkey, the Committee on Rules of Procedure recommended by 13 votes to seven, with two abstentions, that the Assembly approve and validate the credentials of the Turkish delegation.

Mr BUDTZ (Denmark).- We should all be aware of the seriousness of this situation. It concerns not only the representation of Turkey in this distinguished assembly, but the fate and future of the Council of Europe itself. I have the honour to speak on behalf of the Socialist group in the Assembly and I shall express the views of the vast majority of that group, although I recognise that some do not entirely agree with what I shall say.

I begin by reminding the Assembly that I took part in the fact-finding trip to Turkey, and I have no hesitation in admitting that we were presented with evidence of some progress and some improvements in political developments there. We were also received in a most friendly and constructive fashion. There are no doubts in my mind about that.

I am sorry to say, however, that that is not enough. We should all be aware that the present national parliament of Turkey is not representative. That has been proved clearly in the local elections, when parties that were not allowed to participate in the national elections achieved much better results than those representing the opposition in the so-called national parliament. If the local election results were translated into national results, the two opposition parties in the so-called national parliament would not even be represented. In other words, the so-called national parliament is not representative. How can a delegation from a so-called parliament that is not representative be allowed to represent a country in this organisation, which exists to safeguard democracy and human rights?

Moreover, human rights are not respected in Turkey. I have no doubt that the authorities are striving to achieve a situation in which human rights are respected, but that is not so at present, as the documents on our desks and in our files clearly show. For instance, the trade unions are not free. There is not complete freedom for political activities or for the universities. There are still thousands of political prisoners. There is also torture in the prisons, as the Committee on Juridical Affairs reported in detail.

The precedents are clear. I was a member of the Council of Europe and a speaker when we approved Spain's membership of the Assembly. I made almost exactly the same speech then. I said that in view of what had happened in Spain, it had not in our view yet achieved a completely democratic state - indeed it had not even signed the constitution - but my friends and I voted in favour of its admission because we believed that the best way in which to encourage full democracy in Spain was to support its sending parliamentary delegates here.

Exactly the same circumstances arose for Portugal. Then, too, I said that it was clear - the Portuguese were the first to admit it - that Portugal had not yet achieved a full return to pluralistic democracy without military control. Even though the government there did not have the same ideological leanings as I had, I was among the first to say that the best way in which to encourage return to complete democracy in Portugal was to support its membership of the Council at ministerial and parliamentary level.

I have mentioned Turkey mainly, but my observations also cover Cyprus, where the situation is not satisfactory, as was said by the Rapporteur. However, I do not think that arguing about credentials properly sent here is the way to achieve a settlement or the advancement of full representation within this Assembly. I have expressed feelings along the same lines in each committee throughout this controversy.

What is our main purpose? Is it to use this occasion to express our own ideological, party or political convictions, as I have certainly done in the past, because I have always followed the same line? Are we thinking of ourselves and our own political convictions or of the wishes, desires and needs of the people in question? I have no doubt from all the evidence before us that it is in the interests of democracy in Turkey that we should vote favourably for its credentials today. We should not be guided by our personal views. We should think solely in terms of what is best for the interests of the people whom we purport to represent here today.

Mr ELMQUIST (Denmark). - First, I should like to stress, almost as a point of order, that when you called me as the spokesman for the Liberal group, Mr President, that should be taken as the truth. You will see from the list of speakers that no other Liberal member is down to speak. Therefore, we are living up to the self-discipline in debates about which we have been talking in the Bureau. I hope that other groups will do the same.

We have a long debate tomorrow and on Thursday on the political and legal issues of the situation in Turkey. Therefore, I shall not use much of my five minutes talking about a return to democracy or human rights in Turkey. The Liberal group agrees that democracy is a question not of black or white but of development. It is difficult to put forward a 100 per cent definition of democracy. It is a development, an evolution; anyway, it is not a revolution. The Liberal group is convinced that many human rights violations are still going on in Turkey. There are many issues still to criticise heavily and without mercy, so to speak. We shall continue to do that, as we have done from the start.

We have to decide on Turkey's credentials. We are told by some, but not all, of our Socialist colleagues and friends that we should say 'no' to the delegates from the Assembly in Ankara. Is that a logical attitude? If we do not believe that in some circles - not all - in Turkey there is the will to improve human rights, should we not exclude Turkey, following the procedures in Article 8? I think that is logical, but it might be difficult to find a two-thirds majority in favour of that proposal.

Without putting this as a precise criticism of one specific political group in our Assembly, I say that we should be careful not to wash our hands too much: we could wash them so much that our arms fall off.

This morning, Mr Baumel, the two rapporteurs of our committees and I had a meeting with some representatives of Turkish organisations in your office, Mr President, which you did not have an opportunity to attend. We talked for one and a half hours. We were confronted with the question: if a child does not behave, do you caress or hit it in order to correct it? I put a counter-question: in that case, do you want to kill the child so that you can be sure that it will never again behave badly?

I do not like the attitudes so categorically presented to us by the regime in Turkey and by Turkish exiles in Western European countries. They want to impose on us the categorical attitudes that have for so long been haunting Turkey and placed it in its current difficulty. The Liberal group prefers to continue the dialogue. It is a dialogue not without obligation or without end. Tomorrow and the day after many critical conditions will be laid down to the Turkish authorities and national assembly. Those conditions must be fulfilled. If not, we shall know what conclusions to draw. That is not a threat. That is a promise for the future and for democracy.

The Liberal group is therefore for the moment in favour of accepting the credentials of the Turkish delegation.

Mr SILVA (Portugal) said that the issue was political rather than legal. Validation would mean inclusion of representatives of a dictatorial regime in Turkey and approval of the sham elections that had put them forward. In Turkey there were persecution, prisons with torture and censorship, while left-wing parties and trade unions were banned. That was incompatible with the principles of the Council of Europe and he condemned the political action in favour of validation. Validation would not allow progress towards democracy. First, there was no movement towards democracy; the state was actually increasing its control. Secondly, many of the present rulers had been closely involved with fascist parties. Turkey had not returned to democracy, and tolerance of such a regime would lead only to its reinforcement, as experience in Portugal had shown. Such authoritarian regimes should be isolated and condemned.

The validation of the Turkish credentials would be a precedent that would weaken the Council of Europe, while non-validation would strengthen democracy.

Mrs CATSELLI (Cyprus).- The Cyprus credentials were due to be voted on at the beginning of the second part of the 35th session on the basis of a report by the Committee on Rules of Procedure, Document 5108, which recommended the ratification of the credentials of the Cyprus delegation. Because of political considerations, the debate was postponed at that time, and we agreed to that as an indication of good will.

Despite negative developments since then, including a unilateral declaration of independence in the occupied area of Cyprus, the Cyprus Government have continued to make all possible efforts for a peaceful and just solution to the Cyprus problem. We sincerely hope that such a solution will be found soon. Cyprus badly needs such a solution.

A solution would enable a Turkish Cypriot parliamentarian to participate in the Cyprus delegation and - as the Minister for Foreign Affairs of the Republic of Cyprus confirmed in his letter accompanying our credentials to this session - one place is held vacant for a Turkish Cypriot member, pending a solution.

I should like to use this occasion to express my great pleasure in the privilege I enjoy in representing the House of Representatives of Cyprus in the Assembly as the substitute for Mr Ladas, the President of that House. It has given me the opportunity to make important friendships and to learn a great deal. I assure the Assembly that Mr Ladas and I will continue to do our best to contribute to the work of the Assembly in the spirit of the principles and ideals of the Council of Europe, to which Cyprus is firmly attached through historical position, culture and political system.

I thank the Rapporteur, Mr Butty, for his excellent report on the credentials of the Cyprus delegation.

Mr INAN (Turkey) said that the issue had been discussed for four months and that many hurtful and offensive things had been said. Members should consider the realities in Turkey, for example, its low per capita income. There had been set-backs on the road to democracy in Turkey, but the Turkish people were pledged to achieving democracy. If Members voted against validation of the Turkish credentials, they would be subverting democracy in Turkey.

The PRESIDENT said that he was now obliged to interrupt the debate so that it might be concluded by 4 pm. Members who had not been called to speak could submit their speeches in writing for publication.

Mr BUTTY (Rapporteur of the Committee on Rules of Procedure) (Switzerland) said that there had been few references to the Cypriot credentials and he assumed that their validation had now been accepted generally. It was important for Turkey's credentials to be validated so that the progress towards democracy in that country could continue.

Mr FRANGOS (Chairman of the Committee on Rules of Procedure) (Greece) said that it was the committee's opinion by a large majority in both cases that the credentials of both Cyprus and Turkey's delegations should be validated.

The PRESIDENT (Translation).- We now come to the vote on the conclusions of the committee's report and we shall vote on the Cypriot delegation first.

Those in favour of accepting the Cypriot delegation?

Those against?

Any abstentions?

The credentials of the Cypriot delegation are accepted.

The committee has also recommended that the Assembly accept the credentials of the Turkish delegation.

Mr DEJARDIN (Belgium) called for a roll-call vote.

The PRESIDENT (Translation).- Is the call for a roll-call supported by at least nine other members of the Assembly? It has been supported. We shall therefore proceed to a roll-call vote, beginning with Mr Spies von Bülleshe

The voting is completed.

The number of votes cast was as follows:

For 91

Against 50

Abstentions 10

The credentials of the Turkish delegation are therefore declared valid.

Mr VOGT (Federal Republic of Germany) - in explanation of vote - wished to ensure that the voice of the Green Party, which was not represented in the political groups, would be heard in the Assembly. Democracy had not yet been clearly established in Turkey. Torture continued to be practised, and in parts of the country the government was conducting a war against its own citizens. There were other doubts that could be expressed about the validity of the democratic process in that country. He had voted against the validation of credentials because he believed that many in Turkey looked to the Assembly as an international guardian of democracy, and that those who had voted in favour of the validation had betrayed that trust.

Mr BAYULKEN (Turkey).- I should like to explain that my negative vote on the credentials of the Cypriot delegation was not mechanical but to ensure that there would be no divisive elements and that the Turkish stance in relation to Cyprus would be consonant with the aims of this Council. For years, the Council followed a path on which divisiveness was not allowed. I am afraid that due to this vote the search for a solution in terms of a federal settlement for Cyprus will be very difficult.

I wanted to make it clear that our vote was negative for that reason and for no other.