



MEMORANDUM

ON HUMAN RIGHTS VIOLATIONS IN POLAND

POLISH GOVERNMENT - IN - EXILE

LONDON 15th APRIL 1985

MEMORANDUM
of the Polish Government-in-Exile

To the Conference of Experts on Human Rights of the
states participating in the Madrid Review Meeting of
the Conference on Security and Cooperation in Europe
assembled in Ottawa, May 1985.

The Polish Government-in-Exile which represents the genuine interests of Poland and the true views of the Polish nation welcomes efforts aimed at securing the observance of human rights in Europe. At the same time it wishes to draw the attention of the signatory states of the CSCE Final Act signed in Helsinki in 1975 to the blatant violation by the authorities of the Polish People's Republic of the provisions of the International Covenant on Economic Social and Cultural Rights as well as the International Covenant on Civil and Political Rights to which the government of the Polish People's Republic is a signatory.

In this memorandum we wish to give a general description of the many ways in which these provisions are being violated. A broader account and more background information is provided in a report by the unofficial Polish Helsinki Committee which is enclosed herewith.

THE RIGHT TO SELF-DETERMINATION is guaranteed to each nation by Article 1 of both of these Covenants. On the basis of this right all nations not least the Polish one can freely determine their own political status and freely promote its economic social and cultural development. Contrary to this provision, the PPR's Constitution in its Article 3.1 stipulates that "the leading social force in the construction of socialism is the Polish United Workers' Party". This constitutes an usurpation by a single political party of the nation's sovereign rights.

DISCRIMINATION of those who do not hold the official view is endemic. The teaching profession is particularly vulnerable to ideological pressure. This is in breach of Article 2 of the International Covenant on Economic Social and Cultural Rights.

THE RIGHT TO WORK is denied to former activists of the officially disbanded independent trade union "Solidarity" as well as to many political prisoners released under the July 1983 and the July 1984 amnesties. This is a violation of Article 6 of the above mentioned Covenant.

TRADE UNION FREEDOMS are denied to Polish workers. In breach of Article 8 of the International Covenant on Economic Social and Cultural Rights, the PPR's authorities do not respect the right to set up independent trade unions and regard such trade union activity as a punishable offence.

ACADEMIC FREEDOMS which were already restricted now face further curtailment, since the authorities announced details of the proposed amendments to the higher education bill of May 1982.

THE POWERS OF THE SECRET POLICE have been extended still further by the law of 14 July, 1983 of the Ministry of Internal Affairs. The secret police have been authorised to detain not only people who actually violate law and order but also those who are deemed a possible threat to law and order, to carry out bodily searches and check people's luggage in situations where they suspect that an offence or "other act directed against security or public order" has been committed or may be committed. This deprives the individual citizen of protection against arbitrary police decisions. The law lists as many as 11 cases in which the police are allowed to use firearms. On the basis of this law armed units can be used against the civil population in peace time, i.e. without the need to declare either martial law or a state of emergency. The granting of such wide-ranging powers to the police contradicts Article 9.1 of the International Covenant on Civil and Political Rights which stipulates that nobody can be arbitrarily arrested or detained.

THE RIGHT TO LIBERTY AND PERSONAL INVIOABILITY has been abused by beatings, torture, abductions, cruel or degrading treatment by uniformed and plainclothes policemen as well as "unknown assailants" who are linked to the secret police. The recent cases of the degrading treatment of Mrs Barbara Myers, the wife of the American military charge d'affairs in Warsaw and the torturing of a French citizen Frederic Castaigne, had international repercussions. They demonstrated to Western public opinion what the Poles already knew - that the security police can act with impunity, and that violence and unnecessary use of force are condoned at a high level.

The security police (Polish acronym SB) have evolved their own death squads (the cases of Father Popiełuszko and of Piotr Bartoszcze are the two best known examples). They have staged abductions (several unexplained cases in the area of Torun), applied selective terror and committed political murders. It is only in exceptional cases that those guilty of murdering "Solidarity" activists or persons outspoken in their defence of human rights are brought to trial. The most notable exception is that of Father Popiełuszko who was abducted on the night of 19th October, 1984, subsequently tortured and thrown into a reservoir near Wrocław. His body was discovered on

30th October. The three perpetrators directly involved in the murder, officials of the Ministry of Internal Affairs Piotrowski, Chmielewski and Pekala were arrested and charged with murder. Colonel Pietruszka, deputy head of the Ministry's IVth department responsible for religious affairs, was charged with aiding and abetting. The trial which lasted 6 weeks resulted in conviction of the defendants. Although the very fact that the trial took place at all may be seen as a positive development, it will be remembered above all for the violent attacks against the Church made by the defendants. These attacks were continued in the official propaganda after the trial was over. The authorities did not dissociate themselves from these attacks.

THE RIGHT TO LIFE: Since martial law was imposed over 100 cases of violent or mysterious death attributed to the security forces have been documented by the Polish Helsinki Committee. In some cases death occurred as a result of intimidation or deliberate brutality. Between October 1984 and February 1985 further five new cases of police murder have been documented. On 22nd October, 1984 "unknown perpetrators" murdered Aleksander Hac, a "Solidarity" activist from a Dublin truck plant. On 26th October 1984 Andrzej Gebosz, an economics student at Lodz University died after interrogation at the police station. In at least two cases (Krzysztof Jasinski and Tadeusz Frasz), the murder was presented by police as a suicide whereas the circumstances of these crimes clearly showed signs of police involvement.

FREEDOM OF CONSCIENCE AND RELIGION has repeatedly been violated. The case of Father Popieluszko has already been mentioned. Other Roman Catholic priests have also been harassed, intimidated and even tortured by police or "unknown perpetrators". Father Jancarz from Nowa Huta narrowly escaped an assassination attempt when the car he was driving was pelted with stones. Father Zaleski from Krakow was burned with cigarette stubs. Torture has also been used against two priests who were not known for any particular pro-"Solidarity" sympathies (Fathers Ziomek of Matczyn parish and Kosciolko from Kazimierzowka).

Conscientious objectors who refuse to perform the mandatory military service or to take the oath pledging Poland's subservience to the communist block and the USSR are prosecuted under the provisions of the Penal Code (the cases of Mirosław Zabłocki and Marek Adamkiewicz).

FREEDOM OF EXPRESSION as stipulated in Article 19 of the International Covenant on Civil and Political Rights has never been respected by the PPR's authorities. The Press Law of 26th January, 1984 curtails it still further. In order to publish a newspaper or a journal permission from the Supreme Censorship Office must

be obtained. This permission is granted only if the censorship office is satisfied with the political profile of the proposed publication. Failure to follow the ideological line can result in the dismissal of a journalist.

All newspapers and publications are subject to preventative censorship. Certain subjects pertaining for instance to Poland's history, armaments, accidents in the mining industry etc., are taboo. Uncompromising authors are banned. The authorities control also the allocation of printing paper and distribution of finished products. Some monthlies such as Znak (the Catholic publication) or Palestra (the organ of the Chief Barristers' Council) have been published with more than a 12 month delay.

Independent publishing flourishes in underground. Those who are caught are charged with "spreading false information" or "slandering the state and the PPR's authorities". The largest single group of political prisoners in the PPR is held in custody for printing and distributing the "underground press". They include even secondary school boys from Gorzow Wielkopolski who printed their own publication Falcon.

PEACEFUL ASSEMBLIES are still, as at the beginning of martial law, being forcefully dispersed by the riot police. Excessive force was used throughout Poland on 31st August, 1982 resulting in several fatalities, as well as on other occasions (most recently in Wroclaw on 31st August, 1984 and in Gdansk on 16th December, 1984). The participants of independent protest marches are punished with fines or imprisonment by local petty offences tribunals, administrative courts supervised by the Minister of Internal Affairs.

FREEDOM OF ASSOCIATION is denied to Polish citizens. Whoever tries to set up or participate in independent social and political groups is liable to be charged with "leading or participating in an illegal organization", "continuation of activities of organization which was unregistered or refused registration", or even "preparing a coup d'etat". The Poles are not allowed to set up political parties. Stanislaw Kotowski was sentenced in February 1985 to two and a half years' imprisonment for being involved in the Liberal Democratic Party "Independence". The activists of another political group Confederation of Independent Poland (KPN) sentenced in 1982 to sentences of up to seven years' imprisonment and released under the amnesty of July 1984 were re-arrested in February 1985. The committees set up in the aftermath of Father Popietuszek's murder to monitor the observance of human rights have been declared illegal. Two organizers of one such committee in Szczecin, Edmund Bakuka and Jan Kostecki are to face charges in court. Officially authorized organizations and professional associations are tolerated as long as the authorities do not perceive them as a threat to their monopoly over organized social life.

The law known as "the special regulations for the period of overcoming the socio-economic crisis" gave the authorities sweeping powers to interfere in the internal affairs of social and professional associations by suspending their managing boards, forcing new elections and even dissolving them.

THE RIGHT TO PARTICIPATE IN PUBLIC AFFAIRS is violated by an electoral law which, despite some recent amendments still prevents independent candidates from standing in national and local government elections. Consequently, the parliament or Sejm is unrepresentative. Public life lacks authenticity. The recent "consultation" on the latest price rises was a sham affair. The authorities pushed through their own proposals despite strong opposition from both the official trade unions as well as "Solidarity".

In THE ADMINISTRATION OF JUSTICE, the prosecution abuses the practice of "temporary arrest" pending trial by incarcerating suspects on dubious grounds when it decides that "the degree of social danger" of the criminal act imputed to the suspect is "great" or "considerable". In fact the decision to place a suspect under temporary arrest pending trial is renewable on a continuous basis with no limits set on the amount of time a prisoner may be held without trial or even without a formal indictment. In many cases "temporary arrest" pending trial is used even if there are no sufficient grounds for an indictment.

INADMISSIBLE METHODS OF INVESTIGATION include threats, harassment, blackmail, beatings resulting in injury or death and the falsification of records.

THE RIGHT TO DEFENCE is restricted in the course of investigative proceedings by denying the defence counsel access to the suspect held in custody. It is usually only after the investigation has been completed that the defence counsel is allowed to acquaint himself with the files in the case.

DENIAL OF JUSTICE reflect the lack of equality for the PPR's citizens before the law. The perpetrators of official crimes are not as a rule presented with charges and brought to trial. The only two exceptions to the rule were the trials of police officers who murdered school boy Grzegorz Przemyk and Father Popiełuszko. The latter case has already been mentioned. In the former case the police officers were acquitted. In other cases involving offences committed by police officers, the prosecutor's office decided to discontinue proceedings.

Despite two amnesties in July 1983 and July 1984, Poland continues to remain a COUNTRY OF POLITICAL PRISONERS. 27 of them were not covered by the partial and conditional amnesty of last year. The number of political prisoners serving their sentences or awaiting trial is at present in excess of one hundred. Some of the prisoners released under the terms of July 1984 amnesty were re-arrested. Some of them e.g. Władysław Frasyniuk, Bogdan Lis and Adam Michnik were charged under Article 282a paragraph 1 of the Penal Code. This imprecise provision which stipulates that "undertaking an action which might lead to public unrest or disturbances" is punished by up to three years' imprisonment, is widely used as a means of political repression against those who want to exercise their right to organize, participate in public life and express their views freely.

PRISON CONDITIONS in the PPR are extremely harsh. Contrary to Article 10.1 of the International Covenant on Civil and Political Rights, political prisoners are subject to cruel, inhuman and degrading treatment by prison authorities. Beating is a common practice. The food is poor. The prisoners are deprived of proper medical care. Additional punishments which include the "tiger cell" or cell within a cell which has metal bars instead of walls, "solitary confinement cell", a small isolation cell with bare boards to sleep on, and the "thermos", a cell not much longer than the human body with no ventilation, making it difficult to breathe, are imposed upon the prisoners all too lightly. The Ministry of Justice estimated the prison population at about 90,000 people i.e., 10,000 people more than the maximum capacity of Polish jails.

There is no political prisoner status.

The human rights situation continues to deteriorate steadily since the imposition of martial law. The authorities have recently announced plans to introduce new repressive legislation, such as, the bill on increased criminal responsibility or amendments to the Penal Code.

In view of the persistent and blatant violation by the PPR authorities of the International Covenants on Human Rights it is essential that steps be taken to ENSURE THE OBSERVANCE OF THE OBLIGATIONS which the signatory states voluntarily pledged to keep. Laws on human rights cannot be reduced to mere abstractions guaranteeing nothing and concealing the repressive nature of the system. CONDITIONS MUST BE CREATED FOR THE IMPLEMENTATION OF THE COVENANTS. The issue of human rights must become an integral part of foreign relations. The issue of human rights is vital not only for the oppressed people in the Soviet block but also for the security of the Western democracies.