

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500
USA

Dear Mr. Obama,

My name is Gitte Toldsted and I am the Danish wife of Mario Herrera, American citizen. With this letter I would like to back up my husbands letter and requests that he already send to you (dated Friday, May 8, 2009¹) about how both the Danish and the American authorities is neglecting his human and legal rights.

I write to you because I believe from the bottom of my heart that you can make a difference in my husband's case – and at the same a general difference in cases alike.

I have witnessed how Mario has been treated here in my country – Denmark – with disrespect, discrimination, violence and torture. I have witnessed how the Danish authorities ignore and try to hide this behaviour even when it is carried out by other Danish authorities – like the Danish police. And I have witnessed how the American authorities and American politicians are much busier cleaning their hands and covering up their mistakes than defending the rights of one of their citizens.

Both Mario and I, we know that the American authorities can not just change or overrule a Danish court verdict – and that they can not put Danish police officers in front of an American court, that is obvious. That is not for discussion. - But we know that you could and we believe that you ought to at least **PROTEST** and claim to the Danish authorities and the Danish government the respect of both human and legal rights and normal diplomatic procedures and international agreements as the Vienna Convention on Consular Relations of 1963 – in this case and I general too.

About PROTESTING; it is well defined in the web page of the US State Department, where it is emphatic informed to USA citizens that they are protected in this basis. Then for instance, when the Danish authorities violated the Vienna Convention on Consular Relations of 1963 by not allowing my husband to contact the USA embassy, where was the PROTEST, which it is so called "alleged" in this web page?

"...**Immediately PROTEST allegations of abuse against American prisoners...**"

http://travel.state.gov/law/info/info_639.html

The American Embassy perfectly knows that my husband was never allowed by the Danish police to contact them. The Danish police even forbidden Mario to contact a lawyer or to give him the reason why he was arrested, and I am a witness that the American Embassy, they have never ever moved in the direction to make the so called **PROTEST** despite Mario's multiple requests. I think my husband is right when he says that he has been negated his rights as an American citizen, for discriminatory and political reasons.

¹ Attached to this letter you will find Danish postal receipts, for the letter my husband Mario Herrera sent to you person in first person, plus to Hillary Clinton and Eric Holder.

This is not The United States of America that I have known all my life. What does this imply to me as the wife of an American citizen?

More about Mario's case

During the last couple of years now I have been witnessing that my husband has been illegally and brutally arrested and literally thrown to a cell, where he was held for hours neglected his rights to call a lawyer, his family, a doctor or the American Embassy. The police had broken Mario's shoulder, sat on him using an illegal bone lock, blinding him, reduced his possibility to breath, patronized him, and humiliated him, a whole group of officers stripping him and touching his private parts and at the same time laughing at him and finally leaving him injured in a cold cell (*All this happened in a holding cell with an Audio and Video camera, but the Danish authorities says that "it was not recording"*). In other words this is kidnapping and torture.

You can not arrest a person without telling him/her the reason for the arrest, you can not treat him with violence and demeaning, and you can not keep him hidden for five hours without any contact with the external world. Again, this is kidnapping and torture. Neither Danish nor American law justifies this behaviour, and all this is agreed under the Universal Declaration of Human Rights (1958), the European Convention on Human Rights (1950) and (what is especially relevant in connection to this letter) the Vienna Convention on Consular Relations of 1963 (Article 36), which is common convention valid for both our countries.

I have been witnessing that Mario has been prosecuted by the Danish police, because he had the courage to complaint about what they did. - Two of Mario lawyers has said, that if he had asked them first they would have given him the advise not to complaint, because they have seen too often that a complaint only make the police decide to prosecute you for something, even if they have to make it up. That is really scary and do not say anything good about the system in my country.

I have been witnessing - and the same has Anita Faul Funcke from the American embassy - that Mario have been patronised and discriminated in two courts. After the first court the American Embassy complained about the judge, but they did not follow up, when they did not get an answer about, what kind of action were taken against the judge; or maybe they got an answer, but did not inform Mario. After the same kind of discriminatory treatment in the second court the America Embassy did not take any action.

I have been witnessing how there in the court the judge only makes a resume of the testimonies, the conclusions and ruling – no transcript or tape recording. That is how it is done here in Denmark, and that does not give you any chance to provide for yourself a fair trial. In Mario's case both important parts of Mario's testimony were not in the resume and neither can you read in the resume, that the two police officers were giving contradictory testimonies. I can give evidence about this and I am sure that Anita Faul Funcke from the American Embassy in Copenhagen can too.

I have been witnessing that the Copenhagen district attorney again and again has postponed the investigation and processing of Mario's complaint about the police. After two years Mario finally got an answer – and of course while it is the police investigating itself – the district attorney found that there were no proves that the

police did anything wrong. He also argues that after two years it would not make sense to interview neither Mario nor the police officers. He says that their testimonies would not be reliable after such a long period of time. The district attorney is the one who have been postponing for two years – and now he uses the time as an excuse for not doing any investigation himself. What do you call that but malpractice and cheating?

I have been witnessing that Mario's appeal to the Attorney General was handled just like another simple administrative case on an assembly line; - no investigation, no nothing, just copying the answer from the District attorney and then putting another date and another signature. This is total lack of respect, of professional seriousness and more than anything, violating the human right of having an effective remedy²

I have been witnessing that important documents in Mario's case, he does not have the right to have a photocopy of, only making a copy in handwriting. And how do you then later prove, that this handwritten document is not just something you have made up...

I have been witnessing that an important document suddenly pops up – after Mario has been groundlessly convicted in two courts. A document from a police solicitor saying that the arrest of Mario rested on a fragile foundation, that the way of arrest taking due account of the (scant) gravity of the situation can seem too drastic, and that it could be a matter of acquittal, decreased sentence or sentence annulment. Both of Mario's defense lawyers in the case against him have stated that they have never got this document. – This must be an aggravating legal neglect to keep this document away from Mario and his lawyers. Mario has informed the American Embassy about this neglect and so have I to Anita Faul Funcke. The document has been send to the American Embassy in a letter to former ambassador, Mr. James P. Cain.

- You can see the handwritten copy (in Danish) of the letter via the following link. The handwriting is mine:
http://www.norightsforyou.com/JusticeObstruction/udateret_fra_politiadvokat_jens_rasmussen_til_statsadvokaten.pdf
- And you can read the English translation of the letter here:
http://www.norightsforyou.com/JusticeObstruction/jens_rasmussen_document-translated_to_english.pdf

What we have done

Besides that Mario have of course being following all the legal processes and formal procedures to fight his rights in the Danish system, I have been witnessing Mario trying every possible way that he can to make his American representatives in different levels and sides support him in fighting all this injustice and violation of human rights, - and again and again he has been ignored.

Like my husband I complained about the Danish police after they so brutally attacked and illegally arrested him on November 1st 2006. I complained because they would

² The European Convention on Human Rights, Article 13: Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

not give me any information about Mario's arrest, because they treated me – a worried relative and Danish citizen asking for help – with disrespect and sarcasm, and because they talked to me about my husband in a discriminatory and censorious way. They referred to Mario as "oh, this Cuban guy" – not Mr. Herrera or The arrested or The American, which would have been in accordance with the nationality that both Mario and I had presented to them. They would not answer my question about, why they had arrested my husband, but was saying: "totally innocent he is not". So what happened to that you are innocent until proven guilty in court?

Also the handling of my complaint has been postponed several times, and I did not get any answer until ultimo March 2009. In the answer the District attorney excuses that the handling of the complaint has taken such a long time and says that it is because they by mistake had linked my complaint to Mario's complaint. And now, now they can not investigate my complaint because too long time has passed, and now they can not discover the police personnel that I complained about. – It is amazing what the Danish authorities can get away with.

I have of course appealed the ruling to the Danish Attorney General even though I do not expect any fairer ruling from his side. But after getting the answer from this highest legal authority in Denmark, I can take my protest to the European Court of Human Rights too, as Mario.

Beside my complaint, I have been contacting more Danish politicians (e.g. Anne Baastrup, Naser Khader, Anders Samuelsen). Either I have got no answer at all or I have been recommended to go somewhere else – or I have been recommended to keep in silence not to damage my husband's case.

I have been writing the former Danish Prime Minister Anders Fogh Rasmussen. His office passed my request on to the Ministry of Justice, and this office just send me a letter repeating the formal channels where you can complain; no investigation – nothing else.

Besides contacting the Danish side I have also been writing the American ambassador Mr. James P. Cain, and like Mario I got an answer back from the consul Ms. Marilyn W. Rowdybush only washing the hands of the American side, supporting the Danish side, putting in doubt that Mario had got any injury during the arrest – and even suggesting that I should tell my husband to stop contacting the embassy.

Besides my visits along with Mario, I have personally been visiting the American Embassy in Copenhagen, Denmark, multiple times, delivering documentation to Ms. Anita F. Funcke. Additionally I have had multiple phone calls and email correspondence with Ms. Anita F. Funcke at the embassy for almost two years. The US embassy has been informed and given the opportunity to react properly several times; there is not doubt about that.

I also wrote former Secretary of State Dr. Condoleezza Rice³ as well as former President Mr, Georg W. Bush⁴ in December 2008 asking them for help before leaving office. From the latter two I never got any answer.

³ I have enclosed the letter to former Secretary of State Dr. Condoleezza Rice, dated December 6 2008.

⁴ I have enclosed the letter to former President Mr. Georg W. Bush, dated December 20 2008.

Please step up for legal and human rights for my husband - an American citizen

Obviously nobody in Denmark has any interest that Mario's case gets public (only our local newspaper Horsens Folkeblad has got the courage and the right ethics to publish an interview with Mario and his lawyer).

The general level of discrimination in Denmark is – I am shamed to say – high and growing, the level of police violence – and especially against foreigners – is high; discrimination in court is quite normal as well as a slow court system. It is also well known outside Denmark's borders that complaints about the police in Denmark are investigated by the police itself, and that it is hard to find cases where the police are made responsible for their actions.

How is this ever going to change when both Danish and American politicians – out of political convenience I guess – prefer to sweep a case like Mario's under the rug and when the Medias prioritize the best selling news and have given up on being the voice of the public? And how can the American authorities let all this injustice and violation happen to my husband in silence?

As I wrote to the American Ambassador Mr. James P. Cain: "...I would like to know, how The American Embassy in Denmark – representing a country that is fighting for freedom, democracy and human rights all over the world - can accept this..." and "How come, the American Embassy has not complained to the Danish authorities that the police kept Mario there arrested in a holding cell for around 5 hours, without letting him get in contact with either the American Embassy, a lawyer, a doctor or me, as he asked to several times?" "I would like to know, if the American representation in Denmark is going to call attention to these legal and human problems in Denmark by contacting the Danish government or the Danish Minister of Justice? Or if the American State Department will? Just like you would do it in a lot of other parts of the world."

Why does Mario have to fight and to defend himself, proving over and over again that he is not a criminal, while it had to be the Danish police who had to lift the burden of proof demonstrating that Mario is guilty (which they can not, because he is not)? Why has the US Embassy been in silence about this malpractice?

Mario was welcomed in The United States of America under the Cuban Adjustment Act, while his native country was not respecting his human rights. But now that Mario is in fact an American CITIZEN they do not intervene when a third country is violating the very same human rights. That makes me wonder...

Is it because Mario with his background (*Latin name, origin, skin, hair- and eye colour*) is considered a second class citizen – or is it that some countries are allowed to behave like they want because they are friends of the United States and supporting them for example in the war against terror? Or what is the justification that Denmark can get along doing stuff that would not be silently accepted if it went on in e.g. China or Iran?

How can American politicians and authorities at several levels let one of their own citizens fight these violations of his rights by himself?

As a matter of fact, I do not believe that the Danish authorities would never ever have gone so in their violations of Mario's rights, if they had not been supported by an accomplishing silence from the US authorities. I also believe that this silence has been a main reason, why my government has been able to deny their responsibilities in this case. – No protest from Mario's government is like a green light to keep going violation my husband's rights.

Who was it, inside the US State Department, that gave a mandatory order to negate Mario his fundamental rights of protection and not making any kind of protest to Denmark for the its own violations?

And for me as Mario's wife, an American citizen's wife, what it is the real guarantee that I can enjoy, if tomorrow I will go to America with my husband? What is the guarantee to me as a Danish citizen that both Denmark and USA are going to respect and honour an international agreement like the Vienna Convention on Consular Relations of 1963, Article 36 or whatever other Article or international law?

Of course all this happened under the previous administration in your country and we do not hold you responsible for past events. I do though believe that you have the power to do the difference in this matter, the power to give Mario back the rights belonging to him as American citizen – both inside and outside the United States. It is not too late to protest to the Danish Government about the neglect of several human rights within the Danish system, and it would be the right thing to do to make the different American authorities (by their named representatives) that have abandoned Mario in this case be in front of a court, assuming their responsibility and compensate Mario for everything that had happened to him because of their neglect.

Dear Mr. Obama, on behalf of my husband and myself I ask you to finally help us making things right and just – for Mario and fore everybody else in situations like this.

We will keep on fighting ourselves of course both in the Danish, in the European and in the American side but we sure could need your support. Please do the right things in this case.

Thank you.

Sincerely

Gitte Toldsted

P.S. You can find information and documentation about my husband's case on his website: www.norightsforyou.com. And you can contact his lawyer, Mr. Jan Schneider at jan.schneider@tvc.dk or tel. +45 70 11 08 00.