

AI Index: AMR 52/002/2005

London, 29 March 2005

**OPEN LETTER TO THE PRESIDENT
OF THE ORIENTAL REPUBLIC OF URUGUAY
DR. TABARÉ VÁZQUEZ ROSAS**

Mr President,

Amnesty International is writing to you and the members of your government to introduce the organization's work and its concerns with regard to human rights in the Oriental Republic of Uruguay. Furthermore, it is calling on your new administration to draw up policies and launch reforms that will effectively promote and protect such rights. It is crucial that your government has the necessary political will to draw up new policies and standards to protect and promote human rights at a national level.

As you know, Amnesty International is an international human rights movement with over 1.5 million members in over 100 countries throughout the world which works to ensure that all the rights enshrined in the Universal Declaration of Human Rights are observed and respected. It is independent of any government, political ideology, economic interest or religion. It is concerned solely with the impartial protection of human rights, including civil and political rights as well as economic, social and cultural rights. It opposes abuses committed by armed opposition groups, including the detention of prisoners of conscience, hostage-taking, torture and unlawful killings.

Amnesty International bases its work on the international human rights standards set by the international community through the United Nations and other inter-governmental bodies which States are committed to respecting. We address governments because it is they who have the specific duty to ensure that State actors act within the law and respect fundamental human rights.

Against this background, the organization would like to raise the following points that are directly related to human rights promotion and protection in the Republic of Uruguay:

The International Criminal Court

Amnesty International has recognized the importance of the signing and ratification of the Rome Statute of the International Criminal Court by the Republic of Uruguay. It also welcomed the draft legislation relating to internal implementation of the Treaty that was submitted to the Uruguayan Senate for approval some time ago. However, as the organization pointed out at the

time, the draft legislation contains several provisions which are inconsistent with international law and should be amended.

One of the obligations assumed by Uruguay as a result of its signature of the Treaty, and perhaps the most important one, is to ensure that the crimes designated in the Statute, namely, genocide, crimes against humanity and war crimes, are made punishable under domestic law. Your country is also a State Party to many conventions that prohibit certain types of behaviour – known as crimes under international law – which it has a duty to punish at a national level but which so far have not been made criminal offences under domestic legislation. The *Convention on the Prevention and Punishment of the Crime of Genocide*, the *Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*, the *Geneva Conventions of 12 August 1949 and their Additional Protocols*, and the *Inter-American Convention on Forced Disappearance of Persons*, among others, are illustrative of this: in Uruguay they have mere symbolic value, no one can appear before a court of justice charged with genocide, torture, war crimes or the forced disappearance of persons.

Amnesty International is asking you to furnish the means necessary for each and every one of the crimes under international law which Uruguay is committed to punishing domestically to be designated as criminal offences under domestic legislation in accordance with the requirements of the treaties in question as well as international custom.

Also in the context of international legislation, the organization has been concerned by the failure of the Uruguayan authorities to cooperate in judicial investigations being carried out in other countries to clarify the fate of the “disappeared”, including victims of forced disappearances carried out as part of the Condor Plan, and bring those responsible to justice. Amnesty International appeals to your administration to expedite such legal proceedings which seek to ensure that inhuman acts that have been widely acknowledged to constitute crimes against humanity are prosecuted.

Forced disappearances

Mr President, Amnesty International appreciates and very much welcomes the statements made in your inaugural speech with regard to your “commitment to promoting an active human rights policy”, your acknowledgement that, despite the fact that a democratic institutional framework has been in existence for 20 years, “dark areas remain with regard to human rights” and your commitment to strengthen the political, civil and social rights of all Uruguayan men and women.

Your statements concerning the importance of knowing the fate of the victims of forced disappearances that took place under military rule and the recent announcements that investigations are to be carried out in military establishments mean that it will be possible for every single relative to be granted the right to know the whereabouts of their loved ones.

During the period of democracy that Uruguay has been enjoying since 1985 and ever since the Expiry Law (Law 15846) came into force in December 1986, the relatives of the victims and national and international human rights organizations have been calling on the authorities to clear up these serious crimes. Despite the fact that the State has an international duty to investigate such crimes and to bring those responsible to justice, the Expiry Law has prevented this right to know the truth from being exercised and has allowed impunity to continue.

In this context Amnesty International would like to remind you that in 1992 the Inter-American Commission on Human Rights concluded that the Expiry Law violated several different articles of the American Declaration on the Rights and Duties of Man and the American Convention on Human Rights. In its report the Commission recommended that the Government of Uruguay

“adopt the measures necessary to clarify the facts and identify those responsible for the human rights violations that occurred during the de facto period”.

The Inter-American Court of Human Rights, the European Court of Human Rights, the UN Human Rights Committee and the Inter-American Commission on Human Rights have also all stated that “disappearances”, *per se*, violate the right of the relatives of the “disappeared” not to be subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment.

Amnesty International believes that it is essential for forced disappearance to be added to the list of criminal offences which the Uruguayan courts are obliged to prosecute. Forced disappearance is a crime under international law and, as such, should be punished in accordance with the principle of universal jurisdiction, regardless of the nationality of the victim(s) or the alleged perpetrator(s) and regardless of where the offence took place. By incorporating forced disappearance into the Penal Code as a criminal offence, your government will be sending out a clear message to the security forces and Uruguayan society as a whole that these kinds of crimes will not be tolerated.

Mr President, Amnesty International welcomes the measures you have said you will take in connection with this issue and hopes that your government will continue to pave the way for truth and justice.

Torture, ill-treatment and prison conditions

Amnesty International has been concerned at reports of torture and ill-treatment, including cases involving minors held in prisons, detention centres and police stations. It has publicly stated its view that the authorities at the highest level within each country should demonstrate their total opposition to torture and ill-treatment. Amnesty International believes that the eradication of torture and ill-treatment can only be achieved if firm decisive action is taken by the national and departmental authorities and the judiciary. Amnesty International’s concern at these reports prompts it to reiterate its call for control of the security forces to be reasserted at all levels in order to ensure that this serious violation of human rights does not go unpunished.

It is vital for all reports of torture and ill-treatment to be promptly, fully and impartially investigated and for those involved to be suspended from active service and brought before the civilian courts. Appropriate measures should also be taken to ensure that the ban on torture is clearly spelled out in national legislation, in accordance with the requirements of Article 1 of the *Torture Convention*, to which Uruguay is a party.

The organization has also been concerned at reports of poor prison conditions, including overcrowding and the inadequate provision of basic essentials such as food and water. It has addressed the Uruguayan authorities about this concern on several occasions and called for prison conditions to comply with international standards, including the *United Nations Standard Minimum Rules for the Treatment of Prisoners*.

International standards

Mr. President, the organization hopes that the obligations contracted by the Republic of Uruguay under the *Convention on the Elimination of All Forms of Discrimination against Women*, the *Convention on the Rights of the Child*, the *International Covenant on Civil and Political Rights*, which protects the right to physical integrity and the right to a fair trial, and *International Labour Organization Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries*, which protects the rights of indigenous peoples, will be reflected by your administration in a concrete manner and with no restrictions. Compliance with these conventions

would be yet another indication that your government is firmly committed to respecting the human rights of everyone.

The organization notes that the Republic of Uruguay is also a State Party to the *International Covenant on Economic, Social and Cultural Rights*, article 2.1 of which states that each State Party should “take steps, individually and through international assistance and co-operation, especially economic and technical, ... with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”. These rights include, among others, the right to work, the right to an adequate standard of living, the right to health and the right to education.

In this context, the organization recognizes the importance of the statement made by the Deputy Minister of Foreign Relations, Belela Herrera, on 15 March in which she established the position of the new government with regard to international cooperation in the field of human rights and extended “an open invitation” to all thematic mechanisms of the United Nations Commission on Human Rights to visit Uruguay.

Amnesty International hopes that during your presidency and when drawing up future economic policy, these rights will be taken into consideration and that all necessary measures, as specified in the *International Covenant on Economic, Social and Cultural Rights*, will be taken to recognize these rights, thereby acknowledging the indivisibility of all human rights.

Mr President, Amnesty International trusts that the new administration will guide the country over the next five years by throwing the doors wide open to unlimited respect for human rights in the future and will support the realization of full justice for all the inhabitants of the Republic of Uruguay.

Yours sincerely,

Irene Khan
Secretary General