

amnesty international

CUBA

RECENT DEVELOPMENTS AFFECTING THE SITUATION OF POLITICAL PRISONERS AND THE USE OF THE DEATH PENALTY

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SUMMARY

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This document describes some important recent developments affecting the situation of political prisoners and the use of the death penalty in Cuba and updates some of Amnesty International's previously expressed concerns in the country [see Political Imprisonment in Cuba (AI Index AMR 25/06/86), November 1986, and Cuba: Political Imprisonment - an Update (AI Index AMR 25/02/88), January 1988].

In November 1987 Vice-President Carlos Rafael Rodriguez invited Amnesty International's Secretary General to visit Cuba on a private basis. The visit, during which the Secretary General was accompanied by two other staff members of Amnesty International's International Secretariat, took place in March 1988. Much of the information in the attached document was obtained in the course of the visit both from official and non-governmental sources. It is not, however, a full account of that information, some of which is still being processed and assessed.

Amnesty International's longstanding concerns in Cuba have been the imprisonment of prisoners whom the organization regards as prisoners of conscience, reports of ill-treatment of these and other political prisoners, detention and trial procedures, and the imposition and infliction of the death penalty. While many of these concerns remain, the visitors learned of a number of developments in the administration of justice and the prison regime which it hopes will lead to improved guarantees for political prisoners in Cuba.

As well as describing details of the visit, the document provides information concerning recent changes in legislation affecting political prisoners and current estimates of the number of political prisoners remaining in Cuba in the light of recent releases. It describes the legislation under which prisoners of conscience are convicted as well as the conditions under which they are held, with particular focus on Combinado del Este Prison in Havana and Boniato Prison in Santiago de Cuba, where the visitors were able to interview in private over 40 inmates. In the past serious allegations had been received about the conditions of prisoners held in high security and punishment cells and about the conditions of two groups of prisoners the "plantados históricos", "historical plantados", and the "nuevos plantados", "new plantados" (see p.3 for explanation). Allegations had also been received about the

instances of ill-treatment of prisoners while in pre-trial detention, particularly at the national headquarters of the Departamento de Seguridad del Estado (DSE), Department of State Security, in Havana, known as "Villa Marista", to which the visitors were given access.

Detention and trial procedures, with particular emphasis on the rights of detainees and the role of defence lawyers, were also examined as well as the situations in which political prisoners might be transferred to a psychiatric hospital - the visitors were able to visit Havana Psychiatric Hospital, including part of the forensic psychiatry unit.

The visitors were provided with a series of official statistics relating to the number of death sentences passed and executions carried out, both for political and common law offences, from which it was clear that there had been a reduction in recent years, particularly since 1980. The number of capital offences was reduced in the 1987 revision of the Penal Code. A full list of the offences for which the death penalty may still be requested, as well as those for which it was abolished, can be found at Appendix II.

Appendix I contains an update of the cases of prisoners of conscience and possible prisoners of conscience referred to in Political Imprisonment in Cuba and Cuba: Political Imprisonment - an Update.

In conclusion, Amnesty International welcomes the recent developments, including the release of political prisoners and the continuing review of penal legislation. It also makes recommendations about measures it believes would further safeguard the rights of political prisoners as well as the rights to freedom of expression and movement, which have been seriously curtailed in Cuba in the past.

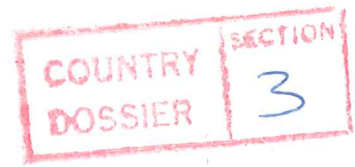
This summarizes a 35-page document, Cuba: Recent Developments affecting the Situation of Political Prisoners and the Use of the Death Penalty (AI Index: AMR 25/04/88), issued by Amnesty International in SEPTEMBER 1988. Anyone wanting further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

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Amnesty International
International Secretariat
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CUBA - RECENT DEVELOPMENTS AFFECTING THE SITUATION OF POLITICAL PRISONERS AND THE USE OF THE DEATH PENALTY

1. INTRODUCTION

Amnesty International's concerns in Cuba were most recently described in Political Imprisonment in Cuba (AI Index AMR 25/06/86), November 1986, updated in Cuba: Political Imprisonment - an Update (AI Index AMR 25/02/88), January 1988. At the time these documents were issued, Amnesty International representatives had not visited Cuba to discuss its concerns directly with the Cuban authorities since late 1977. However, in November 1987 Vice-President Carlos Rafael Rodriguez invited Amnesty International's Secretary General to visit Cuba on a private basis. The visit, during which he was accompanied by two other staff members of Amnesty International's International Secretariat, took place in March 1988 and is described below (p.5).

This document describes some important recent developments affecting the situation of political prisoners and the use of the death penalty and updates some of Amnesty International's previously expressed concerns in the light of information obtained in the course of the visit. It is not, however, a full account of that information, some of which is still being processed and assessed.

2. AMNESTY INTERNATIONAL'S LONGSTANDING CONCERNS

Amnesty International's longstanding concerns in Cuba have been the imprisonment of prisoners whom the organization regards as prisoners of conscience, reports of ill-treatment of these and other political prisoners, detention and trial procedures and the imposition and infliction of the death penalty.

2.1 Prisoners of Conscience

In recent years Amnesty International has sought the release of a number of prisoners of conscience <1> charged with propaganda enemiga, enemy

<1> Persons imprisoned by reason of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour or language, provided they have not used or advocated violence (Statute of Amnesty International, Article 1)

propaganda, after having expressed, either in writing or orally, views considered to be contrary to the Cuban system of government or certain aspects or policies of it. In some instances such views were expressed in letters sent abroad or to representatives of foreign embassies in Havana. Such people face sentences ranging from one to 15 years depending on the nature of the views expressed and the methods used.

Other prisoners of conscience were convicted of salida ilegal, illegal exit from the country, after trying to leave Cuba without fulfilling the necessary legal formalities. The penalty for attempting to do so was until recently between six months' and three years' imprisonment as long as violence or intimidation was not used. [According to Article 12 of the International Covenant on Civil and Political Rights, "Everyone shall be free to leave any country, including their own".]

In addition to those convicted of enemy propaganda and illegal exit, Amnesty International believes there have been other prisoners sentenced for politically-related criminal offences where there is reason to believe that they may have been convicted solely on account of their peaceful opposition to the Cuban Government.

A number of people whom Amnesty International considered to be prisoners of conscience were arrested in recent years apparently because of their activities relating to the defence of human rights. In Cuba: Arrests of Human Rights Activists (AI Index AMR 25/01/87 and update AMR 25/17/87) Amnesty International described the arrest of three members of the unofficial Comité Cubano Pro Derechos Humanos (CCPDH), Cuban Committee for Human Rights: Professor Elizardo Sánchez Santa Cruz (then Vice-President of the CCPDH, who subsequently left the CCPDH to establish the Comisión Cubana de Derechos Humanos y de Reconciliación Nacional (CCDHRN), Cuban Commission of Human Rights and National Reconciliation), Professor Enrique Hernández Méndez and Dr Adolfo Rivero Caro. They were arrested in September 1986, shortly after the President of the CCPDH, Ricardo Bofill Pagés, a former prisoner of conscience, had sought asylum in the French Embassy in Havana, and were detained for several months. Dr Rivero Caro and Professor Hernández Méndez were released without charge in February 1987, and Professor Sánchez Santa Cruz in May 1987.

Amnesty International has also received reports of the imprisonment of Jehovah's Witnesses (from whom official registration was withdrawn in 1974) and Seventh Day Adventists. Some of the Jehovah's Witnesses were imprisoned for refusal to perform military service: there is no provision for conscientious objection to military service in Cuban law.

2.2 Reports of Ill-Treatment of Political Prisoners

Amnesty International has been concerned for many years about reports of ill-treatment of political prisoners, particularly about conditions in solitary confinement and punishment areas, and allegations that guards have beaten detainees, both during pre-trial detention and after being transferred to prison. Many of the most serious allegations have been

related to the prisoners who have become known as "plantados" <1>. Amnesty International has received many reports over the years that, in response to their refusal to cooperate with the prison régime, they were deprived for long periods of many rights. Many spent years without visits and correspondence or access to sunlight and exercise. Medical treatment was reportedly withheld or insufficient, and food and sanitary conditions inadequate. Several, particularly in the early years, died in detention, in some cases apparently as a result of lack of adequate medical attention, others while on hunger strike and yet others apparently as a result of beatings and severe prison conditions. The organization has consistently expressed concern to the Cuban authorities regarding their conditions of detention.

Regular reports were also received concerning extremely harsh conditions for other political prisoners, particularly those held at Combinado del Este, Boniato and Kilo 7 Prisons. Conditions in punishment cells were said to be particularly poor with prisoners sometimes held for long periods in isolation or sometimes in severely overcrowded conditions with little or no light, insufficient food, inadequate sanitary facilities and in some cases with no beds or clothing. Medical attention was also reportedly inadequate. Beatings by guards were said to be common. Amongst those about whom such allegations had been received in recent years had been the group of "nuevos plantados", "new plantados" <2> held in Combinado del Este Prison.

2.3 Detention and Trial Procedures

Amnesty International has been concerned that the Departamento de Seguridad del Estado (DSE), Department of State Security, is able to hold prisoners for long periods without access to defence lawyers. The 1977 Law of Penal Procedures governing detentions carried out by all law enforcement agencies includes no mention of any requirement for judicial arrest warrants and no provisions governing incommunicado detention.

Frequent allegations have been received that political detainees had no access at all to legal counsel during pre-trial detention, that they met the lawyer only at the time of the trial hearing (juicio oral), and that the lawyer confined him/herself to pleading for clemency for the defendant rather than putting forward evidence to counter the claims of the prosecution. One of the factors contributing to the weak position of the defence lawyer appeared to be the dominant role played by the DSE in cases

<1> The word plantado comes from the verb plantar, literally to stand firm. The group of prisoners now known as "plantados históricos", "historical plantados", came into existence in about 1967. Political prisoners, who had until that time been held in the Model Prison on the Isle of Youth (formerly the Isle of Pines) and worn yellow prison uniforms, were transferred to the mainland where attempts were made to make them participate in the rehabilitation programme and wear blue uniforms worn by common law prisoners, which many refused to do. Some were later allowed to wear yellow uniforms while others refused them also and remained in their underclothes ("en calzoncillos"). From that time, the "plantados históricos" were kept apart from other prisoners.

<2> Comprised of political prisoners arrested since about 1979/80, they refuse to participate in the work schemes available in prison and reportedly do not obey certain other prison regulations. Most of them do wear prison uniform.

of people accused of offences against state security; in such cases some former political prisoners alleged that DSE officials, not the courts, were the ones who really decided the fate of the detainee, putting pressure on others involved in the judicial process.

Under the terms of its mandate, Amnesty International opposes trial procedures relating to any prisoners detained in connection with their suspected political activities that do not conform to internationally recognised norms. The organization's fair trial concerns thus extend to cases in which the prisoner may be charged with an offence involving the use or advocacy of violence. The organization has therefore been investigating a number of cases of political prisoners charged with serious crimes, including sabotage and espionage, where it believes trial procedures to have been seriously deficient.

2.4 The Death Penalty

The death penalty was prohibited under the Cuban Constitution of 1940 but the constitution was suspended by the administration of Fulgencio Batista during the 1950s. During the struggle against Batista, one of the slogans of the opposition led by Fidel Castro called for a return to the 1940 Constitution. However, many executions took place during the first six months of 1959 when the present government came to power and Law No. 425 of 7 July 1959 authorized the use of the death penalty for a wide range of "counter-revolutionary" offences. Further decrees and laws passed during the 1960s retained and on occasion extended its possible application, and it was extensively imposed and inflicted. In 1973, a Código de Defensa Social, Code of Social Defence, replaced the previous legislation but continued to stipulate the death penalty as an optional punishment for a wide range of "counter-revolutionary" and common crimes. This was subsequently replaced by the 1979 Código Penal, Penal Code, which also retained a large number of capital offences. However, following revision in December 1987 (Law No. 62), the number was reduced (see p. 25).

There appears to have been a considerable reduction in the use of the death penalty since the early 1980s, although before the recent visit to Cuba, Amnesty International had had great difficulty in obtaining reliable information concerning its application. The Cuban Government does not make statistics concerning capital punishment public or publicize very extensively most cases in which the death penalty is requested or imposed.

The lack or inadequacy in practice of judicial guarantees, particularly in political cases, has been all the more worrying in trials where the death penalty might be requested. It has also been alleged in the past that in some instances prisoners were not given written confirmation of their sentences (at least in some cases where the death sentence was commuted on appeal), that some had not been able to receive family visits following final confirmation of their death sentence and prior to execution, and that relatives were not always informed of when the execution was due to take place or where the body had been buried.

Amnesty International is opposed to the imposition and infliction of the death penalty in all cases and has regularly urged the Cuban Government to consider total abolition, as well as appealing for commutation in cases that have come to its knowledge before sentence was carried out.

3. THE AMNESTY INTERNATIONAL VISIT

Amnesty International's Secretary General, Ian Martin, accompanied by two members of the staff of the International Secretariat, visited Cuba in March 1988 in response to an invitation from Vice-President Carlos Rafael Rodríguez extended to them on a private basis in November 1987. Meetings were held with Vice-President Rodríguez; the Minister of Justice, Juan Escalona Reguera; Deputy Minister of Foreign Affairs Raúl Roa Kouri, head of the Cuban delegation to the 1988 session of the United Nations Commission on Human Rights; Deputy Minister of the Interior General Manuel Fernández Crespo, head of the Departamento de Seguridad del Estado (DSE), Department of State Security; Attorney General Dr Ramón de la Cruz Ochoa; President of the Supreme People's Court, Dr José Raúl Amaro Salup; the President and members of the directorate of the Organización Nacional de Bufetes Colectivos, National Organization of Lawyers' Collectives; Dr Eduardo Bernabé Ordaz Ducungé, the Director, and other doctors from the Havana Psychiatric Hospital, including the head of the forensic psychiatry unit; the directors of Combinado del Este and Boniato Prisons, who were accompanied by Colonel Rafael Guzmán from the Prisons Department of the Ministry of the Interior; and a lawyer from the Legal Department of the Ministry of the Interior, with whom it was possible to review the cases of individual prisoners raised by the visitors.

The visitors spent a total of one and a half days at Combinado del Este Prison in Havana, where they conducted detailed interviews in private with 37 political prisoners and visited the area where the "plantados históricos" were held as well as Destacamento 47, a high security area, and the prison hospital. Pressures of time prevented the visitors from seeing other areas of the prison and the nearby granja, work centre or semi-open prison, known as Granja Van Troi, which comes under the jurisdiction of Combinado del Este Prison.

At Boniato Prison near Santiago de Cuba in the eastern part of the country, the visitors interviewed six of the 17 state security prisoners held there at that time, as well as visiting the prison hospital, workshops, several destacamentos, detachments, and the area known as Boniatico, a high security area where it was possible to interview four ordinary criminal prisoners who had been sentenced to death in the first instance.

At the Havana Psychiatric Hospital, as well as seeing the general facilities, the visitors briefly visited the forensic psychiatry ward called Sala Carbó Serviá, where state security detainees are sometimes taken for tests, and were provided with detailed information about specific cases they raised.

They also visited the detention facilities at the State Security headquarters in Havana, known as "Villa Marista" - it is believed to be the first time access to this installation has been given to members of an international human rights body. Five people were being detained there at the time and the visitors were able to speak to each of them.

The visitors also held meetings in private with members of the two unofficial human rights committees, the Cuban Committee for Human Rights and the Cuban Commission of Human Rights and National Reconciliation, as well as former political prisoners and other individuals.

What follows is an outline of important recent developments relating to the situation of human rights in Cuba together with an updating of

Amnesty International's concerns both in the light of the information provided by the authorities and information received from other sources, including interviews with prisoners and non-governmental contacts during the visit, testimonies of former prisoners, and information received via relatives and friends of prisoners living outside Cuba. The Cuban authorities indicated their willingness to respond to requests for further information and to consider further visits, and Amnesty International is seeking further clarification of various aspects of law, practice and individual cases.

Amnesty International's latest information regarding individual cases referred to in Political Imprisonment in Cuba and the Update is given in Appendix I.

4. RECENT DEVELOPMENTS

4.1 Legislation

Amnesty International was told by Cuban officials during the visit that, as the result of a high-level policy decision, a process of "rectification" and "decriminalization", including a review of all judicial procedures, had been taking place since 1984. The Minister of Justice said that Cuba's attendance at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Milan in 1985 had also led to a re-assessment of the judicial concepts that had prevailed in the country up until that time. The Civil Code and the Penal Code have since been revised, the latter revision taking effect from 30 April 1988, and a review of the Ley de Procedimiento Penal, Law of Penal Procedure, is about to begin. One of the reasons why it had been felt necessary to undertake such a review was in order to find ways to reduce the large prison population and to reduce delays in the judicial process. The authorities told Amnesty International that there had been a tendency in the past for the prosecution always to request the highest possible sentence for an offence under the terms of the Penal Code. Instruction 115 of the People's Supreme Court, dated 22 June 1984, established that first-time offenders could be released after serving half of their sentence and recidivists after serving two-thirds of their sentence, as long as they had observed good behaviour in prison. A review was then undertaken of all inmates who had served more than half of their sentence and in two years, 14,900 prisoners - both common law and political - were said by the authorities to have been paroled.

The revised Penal Code of 29 December 1987 reduces the length of sentences in some cases, provides alternative measures to imprisonment and establishes additional types of sentences. According to the Minister of Justice, it excludes conduct that does not constitute a "social danger". Fifty-eight articles and 33 crimes were removed from the previous Code. Fines are provided as an alternative to imprisonment in more cases than before and other alternatives to imprisonment such as obligatory work in an open prison or in a specified work centre and other kinds of restricted liberty have been introduced. While it is still obligatory for the court to take into account previous offences, it also has to take into account the personal situation of the accused and the relationship of the new offence to the previous one. According to the Minister of Justice, this did not happen in the past. All prisoners, both common law and political, are now

having their cases reviewed in the light of the revision of the Penal Code and it is hoped that 18,000 prisoners will be released as a result - the present prison population, again according to the Minister of Justice, being about 30,000. Order 24 of the Minister of the Interior, known as the Plan de Excarcelación, Release Plan, is also intended to speed up the release of prisoners. It permits early release even if prisoners have not behaved well in prison, as long as they are not thought to constitute a social danger.

Amnesty International welcomes the fact that under the new Penal Code the death penalty is no longer provided for several offences for which it could be imposed under the old Code (for details, see Appendix II). Amnesty International is, however, concerned that there has been little change in the provisions relating to offences of which prisoners of conscience or possible prisoners of conscience are most frequently convicted, such as enemy propaganda and illegal exit. The Minister of Justice said that there had been fewer cases of enemy propaganda in the past two years: it was unlikely that someone would now be arrested simply for writing letters to embassies of foreign countries unless Cuba's security was seriously threatened and the courts would be unlikely to impose such severe sentences as in the past. He also said that there had already been a noticeable reduction in the number of arrests for illegal exit since Cuba and the USA had re-established the 1984 agreement on migration and he expected this trend to continue.

Decree Law 87 of 22 July 1985, amending a section of the Law of Penal Procedure, extended the number of different grounds on which a request for a review of sentence could be made from eight to 19, as well as revising the procedure to be followed. It also established a procedure for reviewing cases where the sentence had already been completed to allow the possibility of clearing the person's record if it was decided that they had been unjustly convicted. The facts of a case can now be reviewed whereas in the past only technical or procedural grounds could serve as a basis for review. Requests for reviews have to be channelled through the Minister of Justice, the President of the Supreme People's Court or the Attorney General. According to the Attorney General, 3,831 requests for review of sentence were received by his office in 1987, of which less than 10 percent were cases of crimes against state security. Amnesty International had received a number of allegations from political prisoners that although they had submitted requests, they were not informed of which office was dealing with their case or notified of the final outcome. The Attorney General said that this may have been true in the past but that now a copy of the form requesting review is sent back to the prisoner informing him/her of which body is dealing with the matter. Political prisoners have told Amnesty International in the past that they did not try to seek a review because they believed they would not get a fair hearing and feared they would face reprisals from prison officials or that the latter would prevent the request from reaching its destination.

4.2 Releases

Many political prisoners have been released in recent years, some as a result of indulto, pardon, usually following the intercession of a visiting foreign personality; some on parole because they have served the necessary half or two-thirds of the sentence and have observed good behaviour in prison; some as a result of the review process that has been taking place; some as the result of the Release Plan; and some on completion of their

full sentence. According to the Ministry of the Interior, people convicted of crimes against state security had been being released at the rate of about 600 per year and 1,960 had been released before completion of their sentence, although it was not clear what period this figure covered.

In 1987 the US Catholic Conference presented the Cuban Government with a list of 358 prisoners and former prisoners whom they urged should be released and allowed to go to the United States. One hundred and thirty-six of those on the list are said to have already been released when the request was presented. The list reportedly included "plantados históricos", people imprisoned for crimes committed under the administration of Fulgencio Batista and others arrested since 1979. According to the Ministry of the Interior, 77 of them do not wish to leave Cuba but 281 will be able to leave or have already left, in most cases with other members of their families. One hundred of those on the list were still in prison at the time of the Amnesty International visit. Ninety-one, including some who had already been released, were due to leave for the USA in a matter of weeks and at the time of writing have begun to arrive there.

Five prisoners of conscience whose release Amnesty International had been seeking up to the time of the visit were found in fact to have been released. At least five others have been released since the visit. (See Appendix I for details.)

According to the President of the Supreme People's Court, some 15,000 prisoners had been conditionally released over the past two years. Only 3.1 per cent had been rearrested for committing further crimes and about one per cent had been returned to prison for breaking the conditions of parole. Very few of these two groups were, he said, former prisoners convicted of crimes against state security.

4.3 Current Prisoner Estimates

At the time of Amnesty International's visit 455 of a total prison population of approximately 30,000, were, according to official figures, detained for crimes against state security. There were in addition three foreign nationals imprisoned for crimes against state security. About half of the 455 are believed to have been released since the visit, making the current figure somewhere between 200 and 300. This figure does not include, however, those detained for trying to leave the country illegally since, although such people are initially transferred to the DSE for investigation by the arresting agency, illegal exit is not a crime against state security. According to the Ministry of the Interior, there were about 140 prisoners convicted for illegal exit at the time of the visit. Nor does the figure include people accused of crimes not defined by the government as crimes against state security which can be generally described as politically motivated, for example, painting anti-government slogans for which people can be charged with desacato, contempt; offences related to religious beliefs, such as those for which Jehovah's Witnesses and Seventh Day Adventists are sometimes imprisoned; or refusing to do military service (see p.10).

With releases now taking place at a steady pace, it is hard to give an up-to-date precise estimate of the numbers of political prisoners remaining in detention. It is difficult for a number of reasons to obtain data on people held for crimes that might be considered political other than those against state security or illegal exit. However, having gathered

information from many sources, both official and unofficial, Amnesty International estimates that there are currently three to four hundred people imprisoned in Cuba for crimes against state security and illegal exit, together with an undetermined number charged with common law offences that might be considered politically motivated and military offences related to conscientious objection to military service. Little information has been received of late relating to new political or politically-motivated arrests although the authorities said that about 40 people were pending trial for crimes against state security at the time of the Amnesty International visit. However, information about new arrests often takes several weeks or months to reach Amnesty International.

At the beginning of June, Amnesty International learned that in a letter to Cardinal John O'Connor, the Roman Catholic Archbishop of New York, who recently visited Cuba, President Fidel Castro offered to release all except 44 of the state security prisoners recognised by the government as remaining in prison at that time if the USA was willing to accept them. Eighty-one are believed to have already been included in the list of those due to go to the USA as a result of the agreement reached with the US Catholic Conference in 1987 (see p.8), while others have already been released and in many cases left Cuba. It appears that the US authorities have agreed to the proposal as long as those concerned fulfill the necessary immigration requirements. It is not yet clear who the 44 not to be released are and why they are being excluded.

5. POLITICAL PRISONERS

5.1 Prisoners of Conscience

The enemy propaganda law, which makes it illegal for anyone "to incite against social order, international solidarity or the socialist state by means of oral, written or any other kind of propaganda", remains unchanged in the new Penal Code (Article 103), with sentences ranging from one to fifteen years depending on the nature of the views expressed and the methods used. During conversations with officials, Amnesty International was told that sentencing in such cases was likely to be less severe than in the past. Furthermore, people caught writing anti-government graffiti or shouting anti-government slogans were more likely to be charged with contempt or insulting behaviour (Article 144), categorized as an offence against administration and jurisdiction, rather than enemy propaganda, an offence against state security. Amnesty International in fact interviewed several prisoners convicted in the previous year or so of enemy propaganda who had been sentenced to one or two years' imprisonment rather than six or eight years which had been the customary sentence for similar offences in the past.

The contempt law says that "anyone who threatens, slanders, defames, insults, damages or in any way outrages or offends, orally or in writing, the dignity or honour of an authority, public official, or their agents or auxiliaries, in the exercise of their functions or on the occasion of or because of them" can be sentenced to between three months and one year's imprisonment or a fine or both. If the abuse is directed against top government officials, the sanction is from one to three years' imprisonment.

Amnesty International believes that both laws inhibit the right to freedom of expression and will continue to seek the release of those it believes to have been imprisoned solely for exercising that right as long as they have not used or advocated violence, under whichever section of the Penal Code they may have been charged.

The section of the Penal Code relating to illegal exit (Articles 216 and 217), which is a public order offence, has been changed inasmuch as the minimum sentence has been reduced and it no longer necessarily results in imprisonment. The minimum sentence for attempting to leave without fulfilling the necessary legal formalities is now a fine (six months' imprisonment was the minimum under the old Penal Code), the maximum remaining three years. However, if violence or intimidation is used, the penalty is between three and eight years' imprisonment. In the case of someone who organizes, promotes or encourages illegal exit, the maximum sentence has been increased from four to five years and the minimum from one to two. A person who provides material help, offers information or facilitates in any way the illegal departure of other people risks a sentence of between one and three years' imprisonment or a fine, the fine being a new addition.

As stated earlier, the Cuban authorities believe that the number of people trying to leave the country will be reduced as a result of the migration agreement that has been established with the USA by which 20,000 people per year will be able to emigrate. However, in the past even when it has been possible for large numbers of Cubans to leave the country, for example, through the Mariel boatlift in 1980 <1>, the Cuban authorities have put obstacles in the way of certain people wanting to leave. The procedures that have to be followed in order to leave are lengthy and if an application to leave is turned down, the reasons are reportedly not given. Furthermore, once a person has applied to leave s/he and his/her family may face discrimination at work or in their neighbourhood since they are considered to have betrayed the revolution by applying to leave Cuba. For the same reason, their applications to leave may not be dealt with sympathetically by the relevant authorities. Young people between 16 and 27 may not leave until they have done their obligatory military service and there is evidence to suggest that some try to leave illegally in order to avoid doing military service, which can at present involve being sent to fight in Angola. In other cases there are indications that people who possess certain skills that are particularly valued, for example, doctors, or people who have had access to certain kinds of information through their work, like government and security officials, are often refused permission to leave.

Several of those who had entered the Peruvian Embassy in 1980 and left it with a safe conduct pass after being told they would be able to leave through the Mariel boatlift were in fact not allowed to leave and in some cases were imprisoned because they then resorted to trying to leave by illegal means.

For all these reasons, although the migration agreement between Cuba and the USA will almost certainly lead to a reduction in numbers of people trying to leave Cuba illegally, it cannot be expected that it will in itself remove all the reasons why people feel obliged to resort to illegal

<1> In 1980, about 125,000 people were permitted to go to the USA after several thousands sought asylum in the Peruvian Embassy in Havana.

methods. According to Article 12 of the International Covenant on Civil and Political Rights, everyone shall be free to leave any country including their own. Amnesty International therefore believes that many people held under Article 216 and 217 of the new Penal Code, who have neither used nor advocated violence, are prisoners of conscience under the terms of its mandate and will continue to seek their immediate and unconditional release.

Amnesty International will also continue to monitor the situation of Jehovah's Witnesses and members of other religious groups, such as the Seventh Day Adventists, who are sometimes charged with offences relating to certain practices of their religion. In the case of the Jehovah's Witnesses (the Watchtower Movement to which they belong is considered an illegal organization), Amnesty International was told of cases during the visit of people who had been sentenced to six months' imprisonment for holding illegal meetings or possessing an illegal printing press. An example given was the case of Joaquín Jiménez Barteleme, arrested in February 1988 and sentenced to six months' imprisonment for possessing an illegal printing press. It is not clear whether he is still in detention. Others are arrested for refusing to do military service although it is difficult to obtain detailed information on such cases and therefore to assess the scale of the problem. It is believed that conscientious objectors who have refused to do military service on other grounds or, for example, refused to serve in Angola, may also be held under military legislation in military prisons but no precise information is available.

5.2 "The Dangerous State and Security Measures"

Section XI of the new Penal Code (Articles 72-90) relates to El Estado Peligroso y las Medidas de Seguridad, The Dangerous State and Security Measures, and has been included in the Penal Code in one form or another since before the 1959 revolution. The "dangerous state" is described as "the special proclivity of a person to commit crimes, demonstrated by the conduct s/he observes in manifest contradiction of the norms of socialist morals". One of the indications of such dangerousness is "anti-social behaviour", together with habitual drunkenness, alcoholism and drug addiction. "Anti-social behaviour" may include "habitually breaking the rules of social coexistence or disturbing the order of the community or living, like a social parasite, off the labour of others or exploiting or practising socially reprehensible vices". Anyone believed to exhibit a "dangerous state" must first be issued with a written warning by the police. If the behaviour continues, they may be brought before a court which may apply medidas de seguridad predelictivas (security measures to be applied prior to a crime having been committed). Such measures may consist of therapy, "re-education" or police surveillance. "Re-education", the measure to be applied to "anti-social individuals", may consist of internment in a specialised work or study establishment or being assigned to a work collective where their behaviour can be monitored and guided, for a period of one to four years. Police surveillance of "anti-social individuals" may likewise last from one to four years. Similar measures, known as medidas de seguridad postdelictivas (security measures to be applied after a crime has been committed), may be applied to recidivists who have failed to fulfil obligations to be carried out after completion of their term of imprisonment and which were specified at the time of sentencing. (Such obligations include being forbidden to move house without the permission of the court, being forbidden to frequent certain places, presenting oneself before a court at specified intervals and any other measure "that can contribute to their re-education".)

Amnesty International is concerned about the use of these measures for a number of reasons:

- the grounds for taking such measures, in the case of so-called "anti-social individuals", are very vague and there are a number of indications to suggest that they have been used against people who, without having necessarily broken a specific law, are known to hold anti-government views. Amnesty International has received a number of recent reports that former political prisoners are sometimes threatened by State Security officials that a "dangerousness" file will be opened against them if, for example, they persist in their applications to leave the country;
- in some cases, those concerned are sent to prison rather than to a "re-educational" establishment or work collective. The Cuban authorities told Amnesty International that the place of internment for people held under this legislation can be changed to a prison by government order (instrucción de gobierno), but it was not clear why or in what circumstances and there is no reference to such a measure under the relevant section of the new Penal Code;
- the procedures followed in such cases are believed to be summary and to allow defendants little opportunity to defend themselves.

Although there have been some minor changes in wording and in the categories of people covered by this section of the Penal Code in the recent revision, there has been no fundamental change in the aspects of it that concern Amnesty International and the organization will continue to request information about its use and urge that it is not used to imprison people on account of their peacefully-expressed beliefs.

6. PRISON CONDITIONS

6.1 Prisons

According to the Ministry of the Interior, there are 47 penal institutions in Cuba: 18 maximum security prisons and 29 semi-open work centres, where prisoners carry out paid work. It was not clear whether this figure included military detention centres. The authorities say that they hope to release between 17,000 and 18,000 prisoners through the Release Plan by the end of 1990. At that time they plan to close down some of the older prisons, probably including Boniato, and redistribute the remaining prisoners in the prisons that remain. Kilo 7 Prison in Camagüey is reportedly being refurbished at the moment to house the most dangerous prisoners from throughout the country. They also have plans to keep prisoners aged between 21 and 27 separately from older prisoners. Those between 16 and 21 are already supposed to be held apart although it is not clear that this is always the case in practice. According to government figures dated 27 March 1988, the 455 prisoners convicted of crimes against state security recognised to be in prison at that time were held in the following places:

<u>Province</u>	<u>Number</u>	<u>Prison</u>
Havana City	312	About 250, including 68 " <u>plantados históricos</u> ", in Combinado del Este, nine women in Havana Women's Prison and the rest, all men, in Granja Van Troi.
Pinar del Río	4	Pinar del Río Provincial Prison
Matanzas	2	Agüica High Security Prison
Villa Clara	28	Manacas Prison, Santa Clara
Ciego de Avila	1	Ciego de Avila Provincial Prison
Camagüey	60	Some in Kilo 7 maximum security prison and others in the <u>frente agropecuario</u> , agricultural work centre attached to Kilo 7, plus two women in Camagüey Women's Prison.
Las Tunas	6	Centro Típico de la Tunas, a semi-open prison.
Holguín	7	Some in Holguín Provincial Prison and some in a <u>frente abierto de construcción</u> , building work centre.
Granma	3	Manzanillo Prison, believed to be similar to Granja Van Troi.
Santiago de Cuba	18	17 men in Boniato Prison and one woman in Santiago Women's Prison.
Guantánamo	14	Chafarinas (believed to be a <u>granja</u>)

(At the time of writing, the figure is believed to be between 200 and 300. Those released include about 30 "plantados históricos" from Combinado del Este.)

However, as already stated above, the figure of 455 did not include all the prisoners Amnesty International was concerned about. The authorities stated that there were some 140 people convicted for salida ilegal. They were believed to be held in the following places: Combinado del Este Prison, Granja Van Troi, Boniato Prison, Guanajay Prison (Havana Province), Quivicán Prison (Havana Province), Nieves Morejón Prison (Sancti Spiritus Province), and possibly others. There are also an unknown number of people held in various prisons under other sections of the Penal Code whom Amnesty International believes may be imprisoned because of their political, religious or other conscientiously-held beliefs.

As well as those already mentioned, the authorities also said that at the time of the Amnesty International visit some 40 people were pending trial for crimes against state security and were held in the following places: Combinado del Este, Kilo 7, Guantánamo, Boniato and La Cabaña (Havana).

6.2 The Prison System

The stated objective of the prison system, which is termed a régimen progresivo, progressive régime, is "re-education". It has three components:

- a) socially useful work - the prisoners are given the opportunity to work, sometimes inside and sometimes outside the prison. Since 1971, they have been paid a salary equivalent to that paid to non-prisoners for similar work. According to the authorities, 84% of the prison population is working at present;
- b) political/ideological education - the aim is to teach the prisoner about national and international affairs through giving them access to newspapers, books, TV, special classes, etc;
- c) the prison régime, consisting of the rights and obligations of the inmates, coupled with disciplinary measures.

A senior official of the Ministry of the Interior, Colonel Rafael Guzmán, told Amnesty International that the prison system was being reviewed in the light of the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Prisoners are held in groups of 80 to 150 according to their classification, sometimes more in the case of remand prisoners. Each group is known as a destacamento, detachment, and each detachment has a jefe de destacamento, prison official, responsible for everything that happens in the detachment.

There is also a consejo de re-educadores, council of re-educators, which is responsible for work, education, medical attention, contact with families, etc.; a consejo de reclusos, council of inmates, under the control of the head of the detachment; and a consejo metodológico, council of methodology, which monitors "re-education" at the level of the prison as a whole. Each prisoner has his/her own file, known as a libreta de control individual de tratamiento reeducativo, individual record book of re-educational treatment, which is maintained by the re-educator in charge of the case.

According to a chart shown to the Amnesty International visitors at Combinado del Este Prison, the inmates among other things have access to the following by right: food, training, medicine, visits, paid work, books and study material, fresh air and conjugal visits. They are also allowed to attend funerals of relatives and are entitled to a reduction of two months per year in their sentence, as long as they observe good behaviour. The frequency of some of the above rights, however, depends both on the kind of behaviour observed by the prisoner while in custody and on the type of prison régime s/he is under.

There are four groups of prisoners, as follows:

- | | | |
|------------|---|--|
| Category A | - | Recidivists, people convicted for crimes against state security, and highly dangerous prisoners; |
| Category B | - | First offenders convicted of serious crimes; |

Category C - First offenders convicted of less serious crimes;

Provisional detention - people held on remand in pre-trial detention.

Each category has two phases, 1 and 2 - the prisoner begins in phase 1 and can move to phase 2, and from phase 2 s/he can be considered for parole, once s/he has completed a certain amount of the sentence and has behaved well. A prisoner can also be returned from phase 2 to phase 1 if s/he behaves badly. Prisoners cannot be moved from one category to another, however.

The frequency of visits, rights to correspondence, and so on, depend on what category a person is in. For example, visiting rights, which were improved in early 1988, are currently as follows:

<u>Category</u>	<u>Frequency</u>
A-1	every 60 days
A-2	every 45 days
B-1	every 45 days
B-2	every 40 days
C-1	every 30 days
C-2	every 21 days
<u>Provisional</u>	every 21 days

Visits last two hours for "A" and "B" category prisoners and three hours for "C" category prisoners. "A" category prisoners may receive visits from an unlimited number of adult relatives plus two children, "B" prisoners may see an unlimited number of adult relatives plus three children. If s/he wishes, the prisoner may have an additional conjugal visit instead of an ordinary visit.

Amnesty International was told that, since early 1988, there were no longer any restrictions on the number of letters a prisoner could send or receive although all letters had to be censored by the prison authorities. In the past, both the frequency and the number of letters had been very restricted, particularly for those in category "A". Prisoners are also allowed to receive up to 20 lbs of certain foodstuffs from relatives when they come to visit.

The frequency of many of these "rights" can be increased as the result of emulaciones, a kind of competition that takes place between prisoners at the level of their detachment, or at the level of the prison as a whole. For example, each detachment can choose the three most outstanding prisoners each month based on how well they have behaved, how neatly they have kept their area, etc.

6.3 Disciplinary Measures and Allegations of Ill-treatment

If a prisoner breaches discipline in any way, the head of his/her detachment makes a recommendation to the prison director concerning the kind of disciplinary measure to be applied. This can range from a verbal warning, suspension of a visit or other privileges, to being sent to a punishment cell for up to 21 days.

In the past Amnesty International has received serious allegations

about the conditions of prisoners held in high security and punishment cells, particularly at Combinado del Este and Boniato Prisons (these are discussed in greater detail in the sections relating to those particular prisons). Regular reports had been received that, in some cases, prisoners were held in overcrowded conditions, sometimes for periods of several weeks or months; there were insufficient beds and sometimes none at all, meaning that they had to sleep on the floor; lighting, food and sanitary conditions were inadequate; and, in some cases, prisoners were held in isolation for prolonged periods in similar conditions. The authorities told Amnesty International that efforts were being made to improve the worst parts of the prisons, and the visitors could see during their tours of the two prisons that some changes for the better had been made. Amnesty International believes, on the basis of information gathered both before and during the visit, that improvement in both physical conditions and the prison régime are recent, having been introduced over the past 12 months, and in some cases very recent. This was also confirmed by prisoners who were interviewed.

Amnesty International has received testimonies of recent beatings of prisoners by guards equipped with sticks and rubber hoses (mangueras) in Combinado del Este Prison. The authorities acknowledged that guards sometimes committed excesses. However, they insisted that such abuses are not tolerated by the prison authorities and that if they are proven, those responsible are punished. They pointed out, nevertheless, that such incidents sometimes occurred as a result of provocation or aggression on the part of the prisoner.

In theory, prisoners may present complaints about their treatment to a representative of the Attorney General's office (fiscal, prosecutor). Prison inspections have been the responsibility of the Attorney General's office since 1976/77. Complaints can be channelled to them by prisoners (via the prison authorities) or by their relatives. Regular visits are made to the prisons by a fiscal (three to five times a month) who goes to talk directly with the prisoner about the complaint, although the Attorney General said that in the past the fiscal just went to the prison administration to make sure that all the relevant papers were in order and did not speak to the prisoner. He said that prison officials and guards are not allowed to prevent complaints reaching his office. In the case of specific allegations about the behaviour of prison guards towards prisoners, he said that he himself normally takes charge of the investigation. At the moment, there are about 35 to 40 fiscales dealing with prisoners' complaints, which the Attorney General acknowledged was insufficient, and they are planning to increase their number, with at least one fiscal being based at Combinado del Este Prison on a permanent basis. Although in theory prisoners apparently have improved opportunities to complain about their treatment, and high-ranking officials were keen to point out that abuses by guards are not tolerated, prisoners do not feel confident that they will obtain a fair hearing because of lack of adequate guarantees in the past, fearing in particular that retaliation might be taken against them for having dared to make the complaint.

6.4 Combinado del Este Prison

Combinado del Este Prison, a maximum security penal establishment, was opened in about 1977. There are three main buildings housing prisoners - Buildings 1, 2 and 3, each with four floors; a separate high-security building called Destacamento 47; the prison hospital (Hospital Nacional de

Reclusos] to which prisoners may be brought from prisons all over the country for treatment; several workshops of different kinds; recreation areas; and the prison administration buildings.

The Amnesty International visitors were able to carry out extensive taped interviews in private with 37 prisoners of their choice, as well as take photographs. Most of the interviews were held in the open air. The visitors were denied access to only one prisoner they had asked to see - Rolando Martínez Valdés, a former official of the Ministry of the Interior sentenced to 30 years in 1983 for crimes against state security, who had reportedly been held in Destacamento 47 for several years. Permission was refused for security reasons on the grounds that he has important security information: he was said to have been held in Destacamento 47 to prevent him passing on such information to other prisoners. The visitors were told that he had recently had an operation for haemorrhoids and that his family had been able to visit him in hospital; his condition after the operation was officially described as "good".

Destacamento 47, nicknamed by the prisoners "Rectángulo de la Muerte", "Rectangle of Death", or "La Pizzeria", "the Pizzeria", consists of 99 cells in three rows. Only one row has direct access to natural light. At the time of the Amnesty International visit, 32 prisoners were held there, all on the corridor with access to natural light. Each cell had an outer wooden door and an inner barred steel door, which until very recently had been almost covered over with metal sheeting, except at the very top and very bottom. The metal sheeting was in different stages of removal on each cell at the time of the Amnesty International visit, with most cells having a substantial part already taken away. The wooden doors had also been removed from the row of cells on the corridor with access to natural light. Lighting which was reportedly very poor in the past has recently been improved. Each cell has two bunk beds but it is understood that prisoners are usually held on their own in each cell. One of the Amnesty International visitors was able to talk to Arturo Suárez Ramos, then under sentence of death (see section on Death Penalty on p.25-26). He had already been interviewed earlier by the visitors outside the building. He had books, magazines, food and other personal items in his cell.

It appears that prisoners may be taken to Destacamento 47 for the following reasons: if they are sentenced to death; as a form of punishment, for up to 21 days; if they are considered a danger to themselves or to other prisoners; and if they have information the authorities feel could be prejudicial to state security. Some political prisoners have, however, been held there for periods of up to four years, for example, Jacinto Fernández González, sentenced to 20 years for espionage in 1981, who was held there from November 1981 until January 1985.

From the prisoner interviews Amnesty International learned about other areas of Combinado del Este Prison containing punishment cells such as the area on the first floor of Building 3 known as "los candados", padlocked cells", where some prisoners had been held for periods of up to 21 months, and a cell on the third floor of the north wing of Building 2, known as "la niña bonita". The latter reportedly had no bed, light or water and was completely enclosed. It was said to have been used to isolate people on hunger strike, among other things. However, some improvements are said to have been made recently to both areas. The Amnesty International visitors were shown by inmates a cell similar to "la niña bonita" in the area of the prison occupied by the "plantados históricos". They complained that in the past up to 18 prisoners had been kept there in complete darkness for long

periods of time. It was not clear when it had last been used.

The Amnesty International visitors were able to visit the "plantados históricos" in the area of Combinado del Este Prison where they were being held at that time (Building 1, fourth floor). They were all wearing either pyjamas or shorts and vests, and were freely associating within their wing. The visitors had earlier included one of them on the list of prisoners they wished to interview, but when he was brought out to them, he said he did not want to talk to them on an individual basis. Prior to entering the wing, the visitors had been told by prison officials that they would be unable to talk with the inmates. However, once inside, it was possible to have brief exchanges with some of them in the presence of prison officials. The visitors were also able to obtain up-to-date information on the situation of the "plantados históricos" from other sources.

Sixty-eight were there at the time, several having been transferred there from Boniato (Santiago de Cuba) in May 1987. All were people convicted of serious offences apparently involving violence in 1959 and the sixties, apart from six who were arrested in the seventies. Conditions for them in Combinado del Este had generally improved in that they were receiving monthly visits and were permitted correspondence, fresh air and exercise. However, many of them are now in their fifties and sixties and are suffering from ill-health, in many cases apparently as the result of the conditions to which they were subjected in earlier years. Three of the 68 had spent 29 years in prison and most of the others over 20 years.

Some 30 of those in prison at the end of March 1988 are believed to have been released since then, leaving about 38 at the time of writing. Amnesty International was informed by the Cuban authorities that 40 of the 68 still there in March were on the list of prisoners due to be released and allowed to go to the USA as a result of the intercession of the US Catholic Conference. It is not known what will happen to the remaining 28 nor why they are regarded as less eligible than others for early release; release is not obviously related to alleged behaviour in prison.<1>

At the end of May, the remaining "plantados históricos" were reportedly moved from Building 1 to Building 3, where conditions are believed to be considerably better. However, it appears that some of those concerned were unhappy about being moved and there was an altercation between them and the guards, as a result of which some prisoners are said to have been slightly injured. Two prisoners - Angel Luis Argüelles Garrido and Alberto Grau Sierra - were said to have been sent to Destacamento 47 as punishment. Once transferred to Building 3, the remaining prisoners reportedly went on hunger strike, partly in protest at the move and partly in protest against the transfer of the two prisoners to Destacamento 47. The hunger strike is said to have ended after six days when the two were also taken to Building 3. Amnesty International has sought information about this incident and the measures taken after it from the authorities but has so far received no response.

Twenty-eight "nuevos plantados", at least one of whom Amnesty International believes to be a prisoner of conscience, were said to be in Combinado del Este Prison at the time of the visit, all held on the second

<1> It has since been learned that most of the remaining "plantados históricos" are included on the list, submitted to Cardinal O'Connor in June, of prisoners President Castro is willing to release if the USA will accept them (see p.9) - about seven are believed to have been excluded.

floor of Building 2. However, more recent reports suggest that their number is now about 20 and that most of them are being held on the fourth floor of Building 1. They have all refused to do prison work or participate in other aspects of the "re-education" programme but most do wear the grey prison uniform. One of them who was interviewed by the visitors described how five of them who in May 1987 had refused to wear the uniform had made their own white uniforms from sheets. The five have spent long periods in punishment cells, sometimes with no clothing and only one meal a day. Since they stopped wearing the official uniform, they have been refused visits and other rights, and allege that they have been beaten on several occasions. They have also alleged that medical attention had been denied to them but medical staff at the Prison Hospital showed the visitors medical files of their treatment.

6.5 Boniato Prison

Boniato Prison is also a maximum security penal establishment built in 1949 according to a so-called "telephone" system so that the whole prison is visible from one central point. It has a capacity of 2,000 and according to officials, in March housed 1,800 prisoners, 17 of whom were convicted of crimes against state security and five convicted of crimes committed during the Batista period. However, on about 22 May some of the 17 prisoners convicted of crimes against state security were reportedly released and others transferred to Combinado del Este Prison (another state security prisoner formerly held there, Amado Rodríguez Fernández, had been transferred to the hospital at Combinado del Este Prison on 28 March - see Appendix I).

Amnesty International interviewed seven prisoners at Boniato, six prisoners convicted of crimes against state security whose cases were previously unknown to the organization and a former political prisoner now convicted for contempt, a common law offence, Fernando Villalón Moreira <1>. The visitors were also able to talk to four men held in Boniatico who had either been sentenced to death in the first instance or whose appeals were pending decision of the Supreme Court - all were charged with rape or murder (See p.26 for details).

At Boniato Prison there is a hospital, several workshops, the high security area known as "Boniatico", also used as a punishment area, several buildings housing prisoners, leisure facilities, and the prison administration building. Many prisoners work outside the prison on construction brigades at Bacanao, a new tourist development near Santiago de Cuba.

Boniatico is the area of the prison where the "plantados históricos" were held when at Boniato between 1979 and 1987. It consists of 80 cells in two rows facing each other situated on two floors. Seventy men were held there the day of the visit, either one or two to a cell. Each cell

<1> When the prisoners convicted for crimes against state security were released or transferred to Combinado del Este Prison on 22 May, Fernando Villalón is said to have gone on hunger strike in protest at not being included since he considers himself to be a political prisoner. As a result, he is said to have been moved to Boniatico, the high security/punishment area, although he is now believed to have given up his hunger strike. Amnesty International is seeking his immediate and unconditional release since it considers him to be a prisoner of conscience.

has a barred steel door covered with metal sheeting, except for a space of about six inches at the top. At least some of the cells have large barred windows overlooking what was formerly the exercise area for those held there, a series of cage-like structures entirely covered with wire-fencing. The Amnesty International visitors were told by the authorities that this was no longer used and that the prisoners were taken elsewhere for exercise and fresh air.

The general visiting area consists of a large courtyard with trees, wooden seats and a children's play area, surrounded by booths in which prisoners until very recently had to sit and talk to their relatives through wire mesh. Again, the Amnesty International visitors were assured by the authorities that the booths were no longer used and that prisoners could meet freely with their families in the courtyard.

7. DETENTION AND TRIAL PROCEDURES

7.1 Detention Procedures

Detention procedures were described to Amnesty International by officials during the visit. Arrests in cases of people caught in flagrante delicto are carried out by various branches of the security forces - police, coastguards, etc. However, if it is thought that a crime against state security is involved, or it is a case of illegal exit, trying to leave the country illegally, the DSE is informed and an investigator is sent to decide whether or not the person(s) concerned should be transferred to a DSE facility (in the case of Havana, Villa Marista, which is also the national headquarters of the DSE, and in the case of Santiago de Cuba, Versalles). Arrests can also be carried out directly by the DSE but in such cases an arrest warrant has to be issued by a fiscal and authorized by the DSE Director who is also a Deputy Minister of the Interior. In the case of groups of five or more, the Minister of the Interior has to authorize the warrant.

A person cannot be held for more than 24 hours without the instructor, the investigating official, being informed. The instructor then has 72 hours to release the person or put them at the disposal of the fiscal, the prosecutor.

DSE detainees from the Havana area are then taken to Villa Marista, which has 70 cells, six of them for women. The men's cells have two beds on each side, one above the other, which fold down from the wall on chains. The women's cells have single beds and separate bathrooms. The Amnesty International visitors were given a guided tour of the installation and were able to talk briefly to the five men being held there at the time, all on charges of complicity relating to attempts to leave the country illegally. The five told the visitors they had been there between 13 and 15 days. The authorities said they would probably be released soon. Amnesty International was told by officials that the maximum time anyone had spent there in 1987 was 16 days. However, the organization is aware of four cases during 1987 that exceeded that period of time - Elizardo Sánchez Santa Cruz, Adolfo Rivero Caro, Enrique Hernández Méndez and Dr Samuel Martínez Lara, all arrested in September 1986. The three latter were held without formal charge at Villa Marista until February 1987 while Sánchez was not released until May 1987. Although he had spent two or three months in the

Military Hospital as the result of a hunger strike, he was returned to Villa Marista on 5 February 1987 until his release on 25 May 1987.

The DSE Director receives a daily report of all arrests that have taken place nationally and maintains a central register of arrests that operates 24 hours a day.

According to official statistics, 1,292 people were detained by the DSE during 1987, 681 of whom were charged and transferred to prison. 574 of the 681 were people arrested for illegal exit. The DSE Director confirmed that the rate of arrests for illegal exit is so far much lower in 1988 due, he believed, to the migration agreement that was concluded with the USA. Amnesty International was told that altogether 46 people had been arrested by the DSE (both for crimes against state security and illegal exit) since January 1988 and that many had already been released.

While held by the DSE, detainees are allowed weekly family visits with a maximum number of three adults and any number of children. Visits last from 30 minutes to one hour. In certain circumstances, for example, if a family member is ill, extra visits may be granted. Until quite recently, the detainee had to meet his/her family for 10-15 minutes in the presence of the instructor and was not allowed to discuss the reasons why s/he had been arrested with the relatives, but this is said no longer to be the case. Medical care is said to be provided. If the person has a background of psychiatric problems or shows instability while in detention, s/he can be sent to a psychiatric hospital for tests. In the case of Havana and surrounding area, they are sent to the Havana Psychiatric Hospital (formerly known as Mazorra). If it is found that the person has a psychiatric condition, the DSE inform the prosecutor's office and the investigation is temporarily halted, while the person is kept at the psychiatric hospital. (See section on Forensic Psychiatry on p.23.)

The investigation period (fase preparatoria) can take up to 60 days but can be extended to a maximum of six months on the authorization of the fiscal. It is on this basis that the authorities justify prolonged detention in DSE detention facilities. According to the Law of Penal Procedure, the detainee is able to participate in the collection of evidence from the moment when s/he is charged. However, Article 249 of the law establishes that for reasons of state security the defence lawyer may be excluded from participating in the investigation until the fiscal has drawn up conclusions to be presented at an oral hearing (juicio oral). The DSE Director acknowledged that this discretion to exclude defence lawyers had automatically been applied in all state security cases, but said that they intended to change this so that lawyers may participate in the process from the beginning, although he envisaged that there may be exceptional circumstances in which some limitations might be imposed. Habeas corpus is provided for in the Law of Penal Procedure (Articles 467-478) but is little used in practice.

Once the investigation is under way, detainees can be transferred to a pre-trial detention facility, for Havana the Prison of La Cabaña and for Santiago de Cuba Marverde Prison, until the case is brought to trial. While in pre-trial detention they have visiting rights every 21 days. Conditions in La Cabaña are said to be crowded and generally poor: it is an old Spanish colonial fortress which has reportedly not undergone much modernization.

A frequent complaint made to Amnesty International by former and current prisoners is that throughout the period of pre-trial detention and the trial itself, the roles of the various bodies involved - the DSE, which is part of the Ministry of the Interior; the fiscal, who works for the Attorney General's office; and the judges, who are appointed by the Council of State and fall under the jurisdiction of the Supreme Court - are not clear and distinct. The prisoners complain that, although these bodies are supposed to be independent of each other, it is the DSE which is in a position to exert most power. When asked about the apparent close relationship between the fiscal and the DSE in particular, the DSE Director said that it is not unusual for people who once worked at the DSE to go and work at the Fiscalia and that since they know each other, sometimes cases would be discussed between them. He insisted, however, that the pressure worked both ways. The Attorney General said that it was hard to find people of his generation who were not involved at some point with the Ministry of the Interior and the Armed Forces; this was not however true of the new generation.

7.2 Allegations of Ill-treatment in Pre-trial Detention

Amnesty International had received serious allegations in the past concerning the treatment of detainees in Villa Marista and other DSE detention facilities, such as Versalles in Santiago de Cuba and the one in Santa Clara. Some of these allegations were repeated in interviews Amnesty International carried out with prisoners in Combinado del Este and Boniato Prisons during the visit. Particular reference was made on several occasions to the existence of "cold cells" in Villa Marista, where detainees were reportedly left naked for several hours or days; two said they were hooded and taken either elsewhere within Villa Marista or by car to a building outside after being forced to lie on the floor of the vehicle with the official's feet on them; several referred to psychological pressure being exerted on them to confess, for example, by threats against members of their family. Most of these allegations dated from the early 1980s. When questioned about them by Amnesty International, the DSE Director referred to the video control system now in place, which the visitors saw in operation. All interrogation sessions are filmed and DSE officials can monitor what is happening in every part of the building without the occupants of a particular room or cell knowing. If the detainee is moved from the cell, a record is kept of where they are taken and who authorized the move. The instructor is not allowed to enter the detainee's cell or to take the detainee outside the building. The DSE Director said that in the four years he had been in charge, he had seen only one case of a guard slapping a detainee. The incident happened in about 1986 and the guard was removed from Villa Marista and dismissed from the service. From the information available to Amnesty International, it would appear that there is no pattern of systematic physical ill-treatment during the pre-trial interrogation period. However, many former prisoners have told the organization that they were threatened with execution and subjected to other forms of psychological pressure to force them to confess.

Amnesty International has in the past received occasional allegations of deaths occurring in suspicious circumstances in Villa Marista and believes that independent investigations should be carried out in such circumstances. Former DSE detainees also allege that on occasion people have committed suicide by hanging from the chains supporting the beds in

the cells at Villa Marista. The DSE Director stated that if a person dies in detention, he has to be informed and he then has to appoint an inspector to determine the cause of death. If there appears to be reason to believe that foul play was involved, the military prosecutor is called in.

7.3 Trial Procedures and the Role of the Defence Lawyer

Private law practice was abolished in Cuba in 1974. Since then, except in certain circumstances specified by law, lawyers have been able to work only in group practices known as bufetes colectivos, lawyers' collectives. The Organización Nacional de Bufetes Colectivos (ONBC), National Organization of Lawyers' Collectives, is an autonomous organization whose functions are regulated and defined by Decree Law 81 of 1984. In conversations with the Amnesty International visitors, both government officials and the President of the National Directorate of the ONBC, Lic. Emiliano Manresa Porto, recognized that prior to 1984 there had been many problems regarding the role of lawyers in practice. Since then a number of steps had been taken to try and strengthen their role and educate both the public and lawyers themselves about what their duties should be. A client (or a member of his/her family) may approach a lawyer directly to request their services at a fee established by law. If they do not do so, then the defendant is assigned an ex officio advocate, abogado de oficio, by the relevant bufete. A fee of a maximum of 80 pesos is sometimes charged for this service. Since 1985 steps are said to have been taken both to increase the number of lawyers and to improve the quality of their work. Three hundred lawyers have been trained since 1985 and 200 more will have completed their training by September 1988.

There are three levels of courts: municipal, provincial and national (the Supreme People's Court). At each level, there are separate bodies dealing with penal, civil and labour law. However, all cases of crimes against state security are dealt with at provincial level, by the Court of Crimes against State Security, presided by three professional judges and two lay judges, with appeal to the Supreme People's Court.

The role of the fiscal is to prepare the prosecution case against the defendant. The emphasis is on obtaining corroborating evidence: conviction cannot be based on confession alone. Once the investigation is complete, the fiscal presents provisional conclusions to the court together with a recommendation on what sentence should be passed. The hearing (juicio oral) is normally public and is attended by the defendant, the defence lawyer, family members and witnesses. In theory, the defence lawyer is also supposed to be able to produce evidence in favour of his/her client. However, Lic. Manresa acknowledged to Amnesty International that in many cases this had not happened in the past due to practical difficulties in meeting with the fiscal or the defendant in order to gather the necessary information. As already mentioned, Amnesty International had received frequent allegations in the past that defendants in political cases were unable to meet their lawyer until minutes before the trial hearing and that the lawyer had had no prior access to the prosecution case. However, an official instruction (of which Amnesty International was given a copy) was issued in January 1987 to all bodies involved in the judicial process that all practical possibilities had to be given to lawyers to enable them to carry out their duties. It spelled out in detail how, when and where the defence lawyer should have access to the case dossier and the defendant. However, the directives applied only to detainees being held by the National Revolutionary Police and in prison establishments and did not

extend to those being held by the DSE. It appears that in principle DSE defendants can see their lawyers once they are transferred from the DSE to a provisional detention centre such as La Cabaña, although it is not clear whether this yet happens in practice.

Lic. Manresa said that his organization intended to make its own recommendations concerning the review of the Law of Penal Procedure, which at present reflected the views of judges and prosecutors rather than those of the defence. Another problem they were trying to rectify was the practice of substituting lawyers rather than postponing the trial if for some reason they did not turn up on the day of the hearing.

Once sentence has been passed, the Law of Penal Procedure provides that an appeal may be presented within five days but only on technical or procedural grounds.

7.4 Forensic Psychiatry

The Amnesty International visitors asked to visit the Havana Psychiatric Hospital because the organization had received occasional reports that political prisoners were taken there although it was not clear in what circumstances. Two wards had been mentioned in particular - the Sala Carbó Serviá and the Sala Castellanos.

Amnesty International was told by officials that if certain behaviour is detected while a person is held in provisional detention or during the period leading up to the trial, s/he can receive a psychiatric examination either in the place of detention or, in the case of a serious problem, in a psychiatric hospital. First of all, a psychiatrist, psychologist and social worker go to visit the person in detention and if they think it necessary, the person is hospitalized. Prisoners already convicted can also be referred to a psychiatric hospital if they develop psychiatric problems while in prison. However, it was drawn to the attention of the visitors that in many cases the family of the detainee requested a psychiatric examination in order to determine whether extenuating circumstances of a psychiatric nature might be cited in their defence. The hospital has 10 to 30 days to study the patient and to make a decision on how to proceed.

The Amnesty International visitors were permitted to visit the Sala Carbó Serviá, which consisted of a poorly-lit main room with several rows of about 90 closely-packed beds, a dining room with cement tables and benches, a sick bay, and several individual interviewing cubicles. The director of the unit explained that if an inmate showed signs of agitation, they would be taken to the sick bay, strapped to a bed and sedated. When asked if there was another ward in the hospital for forensic inmates, he said there was not. This was in contradiction with allegations made to Amnesty International by prisoners who say that while in the hospital, they were sent to a ward called Sala Castellanos as a form of punishment. Conditions there were described as very harsh.

Cases of prisoners known to Amnesty International to have spent time in the hospital were raised and the doctor provided detailed information from their files concerning the reasons why they had been taken there, how long they were kept there, what treatment they were given, and what diagnosis was made in each case. Amnesty International was later able to cross check some of this information with some of the prisoners concerned

whom they interviewed in Combinado del Este Prison. One prisoner who told Amnesty International he was held in Sala Castellanos for 11 days in early 1987 said he was put in a punishment cell without a bed or mattress or toilet facilities. He had been taken there after trying to escape from Sala Carbó Serviá.

Amnesty International has no reason to believe that political prisoners are referred for psychiatric tests for other than genuine forensic reasons. However, people not suffering from any psychological disorder are held together with violent psychopaths and seriously disturbed people, making their stay there a very traumatic experience and leaving the practice open to abuse. The Sala Carbó Serviá, an old, dark building, contrasts starkly with the rest of the hospital premises, which are bright and modern. The Amnesty International visitors were told, however, that a brand new forensic psychiatry unit is being built where conditions and facilities would be considerably improved.

8. THE DEATH PENALTY

8.1 Legislation and Procedures

The number of capital offences has been reduced in the 1987 revision of the Penal Code, which came into effect on 30 April 1988. The death penalty has been abolished for crimes against "collective security", robbery with violence and intimidation, and certain crimes against peace and international law. In addition, the situations in which it can be applied for rape and pederasty with violence have been more narrowly restricted. The death penalty continues to be provided as an optional form of punishment in 23 articles, 19 relating to crimes against internal or external state security or against peace and international law, two for crimes against life and corporal integrity and two for crimes against the normal development of sexual relations and against the family, infancy and youth. A full list of the 23 articles is attached at Appendix II, together with a list of offences for which the death penalty was abolished in the recent revision of the Code.

The death penalty is also provided for in the 1979 Ley de los Delitos Militares, Military Offences Law. It is an optional sanction for 19 offences, some of them applicable only in time of war or combat.

The death penalty is only to be used exceptionally and "can only be applied by the court in the most serious cases of crimes for which it is established". It cannot be passed on young people under 20 years of age or on women who were pregnant at the time when the offence was committed or at the time of sentencing. Execution is by firing squad.

Death penalty cases are automatically sent for appeal to the Tribunal Supremo Popular, People's Supreme Court. If the death sentence is confirmed, the Ministry of Justice then studies the case and makes recommendations to the Consejo del Estado, Council of State, which has the power to decide whether a prisoner is executed or granted clemency. Clemency consists of commutation to imprisonment for a maximum of 30 years.

8.2 The Death Penalty in Practice

The Minister of Justice told Amnesty International that between 1959 and 1987 a total of 237 people were sentenced to death, mostly in the early years of the administration and many during 1959. In all but 21 cases the sentence was carried out. None of those executed were women. However, he said that no-one had been executed for crimes against state security since 1984 when Luis Llanes Aguila was executed after conviction for terrorism, sabotage and enemy propaganda, and that prior to that, the number of executions of people convicted for crimes against state security since 1980 was 12 (1980 - 6; 1981 - 3; 1982 - 1; 1983 - 2).

He also said that the number of executions of people convicted of common crimes since 1984 was 11 (1984 - 7; 1985 - 1; 1986 - 0; 1987 - 3). The three executed in 1987 were José Luis Sardiñas Camuet and Enrique Osmany Rosales Garcia, both of whom were convicted of murdering fellow inmates while in prison, and Blas Oscar Marrero Betancourt, also convicted of murder.

On the basis of the figures supplied by the authorities, there has been a reduction in the number of executions carried out in Cuba in recent years. The Minister of Justice told Amnesty International that since 1986 death sentences had been commuted in 11 cases, some of which had been kept pending since 1982 in the context of a review of policy on the application of the death penalty. On 23 March 1988 the case of Francisco Acosta Matos, a 21-year-old man convicted by a military court of raping a baby girl [causa (case) No. 23/86], had been commuted. Five other death sentences were pending decision of the Council of State at the time of the Amnesty International visit: two prisoners (names not known) who killed a guard while trying to escape; Jorge Luis Pedroso Bobín, accused of murdering his wife and other members of her family; Alfredo García Rebolcado, accused of murdering an old man; and Arturo Suárez Ramos, convicted for crimes against state security related to a hijacking attempt in which several people were seriously injured and one hijacker killed when a hand-grenade belonging to the hijackers, who included Suárez, exploded on board the plane. Amnesty International, both during and after the visit, urged the Cuban authorities to commute all five death sentences and upon returning to London, the Secretary General was informed by the Minister of Justice that the death sentence on Arturo Suárez Ramos had been commuted on 28 March to a term of imprisonment believed to be 30 years, although it was not specified in the letter. No news has been received about the other four since the visit.

During the visit to Boniato Prison, the Amnesty International visitors also came across the cases of four men sentenced to death in the first instance and whose cases were pending review by the People's Supreme Court: Leonel Verdecio Mazo, Raudel Martínez Quindela, Roberto Fonseca and Efraín Fuente Quindelán, all believed to be convicted of rape or murder. Amnesty International has raised their cases with the Cuban authorities but so far no further news has been received.

9. CONCLUSIONS

Amnesty International welcomes the releases of large numbers of political prisoners, including prisoners of conscience. It urges that all remaining prisoners of conscience be released, and that the release of prisoners of conscience in all cases should be unconditional. The organization is concerned that a condition common to many recent releases of prisoners of

conscience has been that they leave Cuba. While many may want to leave the country, Amnesty International believes that exile should not be made a condition of early release and that they should be given the choice of being released and remaining in Cuba, if they so wish.

The authorities recognize that many prisoners sentenced in the past did not have full rights of defence and that prison sentences imposed were heavier than those which would be imposed under the country's revised penal policy. Amnesty International believes that serious defects in the defence and other aspects of trial procedures have continued to exist in cases of convictions in recent years. It urges that the review of cases already under way should proceed in the light of these defects as quickly as possible and should extend to all cases of political imprisonment of concern to Amnesty International and not only those convicted of crimes against state security.

Crimes against state security appear to have been largely excluded from the scope of the review of the Penal Code: Amnesty International urges that the offences, especially enemy propaganda for which non-violent critics of the government have been imprisoned in the past, be reviewed, and that the internationally-accepted right to leave the country be fully respected in current practice and future legal changes.

The authorities informed the Amnesty International visitors that prison regulations and conditions are being renewed in the light of the UN Standard Minimum Rules for the Treatment of Prisoners. In view of its serious past concerns, Amnesty International welcomes the improvements already introduced and the continuing review. It regards as being of great importance that investigations be undertaken into all allegations of beatings or other ill-treatment and that those found to be responsible be brought to justice and hopes that the intention of the Fiscalía, Attorney General's Office, to devote increased resources to the inspection of prison conditions and investigation of complaints can be rapidly fulfilled. In this connection, Amnesty International particularly welcomes the recent introduction of regular visits to political prisoners by the International Committee of the Red Cross.

The authorities stated that, following the introduction of the new Penal Code, the Law of Penal Procedure would be reviewed. Amnesty International believes that anyone detained should have prompt access to their family, a lawyer and if necessary a doctor. It urges that these rights be provided in the revised law, and intends to submit further recommendations to the government in connection with the review.

Amnesty International welcomes the reduction in the circumstances in which the death penalty can be imposed under the new Penal Code. It hopes this will be a step towards complete abolition but, until this occurs, draws the attention of the Cuban Government to Resolution 1984/50 on safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the UN Economic and Social Council on 25 May 1984, which says: "In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes, with lethal or other extremely grave consequences." Amnesty International welcomes the commutation of the death sentence imposed on Arturo Suárez Ramos, and urges the commutation of all other pending death sentences.

**UPDATE OF INDIVIDUAL CASES REFERRED TO IN AMR 25/06/86, "POLITICAL
IMPRISONMENT IN CUBA" AND AMR 25/02/88, "POLITICAL IMPRISONMENT -
AN UPDATE"**

(NB. During the course of the visit, Amnesty International gathered new information concerning cases of prisoners of conscience and possible prisoners of conscience not referred in the two documents mentioned above. The present document is, however, confined to those cases previously cited.)

Prisoners of Conscience and former Prisoners of Conscience

José Luis ALVARADO DELGADO

He was released on 19 March 1988 and, as far as Amnesty International is aware, is still in Cuba.

Pablo Andrés BETANCOURT RAMOS

He was released on 5 February 1988 and, as far as Amnesty International is aware, is still in Cuba.

Eduardo Orestes CRESPO GOVEA

He was released from prison in about April and May 1988 and remains in Cuba at the time of writing, although he hopes to be able to leave. A former minister of the Iglesia Misión Mundial Unida, World United Mission Church, he was sentenced to six years in 1984 for "other acts against state security relating to rebellion and enemy propaganda". At the time of the Amnesty International visit he was held at Granja Van Troi but was brought to Combinado del Este Prison to be interviewed. He confirmed that he had undertaken a fast in protest at attempts to make him cease his religious activities in the prison and that as a result he was suffering from a stomach ulcer. He also confirmed that he had been transferred to Kilo 5 1/2 Prison and back to Combinado del Este before being sent to Granja Van Troi but said that at no point was he taken to Marianao Military Hospital as earlier reported. His sentence was due to expire in 1990.

Dr Domingo Jorge DELGADO FERNANDEZ

He was released on 9 May 1988. He had been sentenced to eight years in 1981 for "violating the right of extraterritoriality of the Ecuadorian Embassy". Amnesty International was able to interview him in Combinado del Este Prison during the visit. He told the visitors that on the day of his arrest he had gone to meet an official from the Ecuadorian Embassy at a place outside the confines of the embassy in order to discuss matters relating to the arrest of relatives of his who had tried to seek asylum at the embassy in February 1981. He said that he personally at no point stepped on embassy property and was simply trying to investigate the

circumstances surrounding the arrest of his relatives in his capacity as their defence lawyer. His sentence was due to expire in December 1989.

He also said that, contrary to previous reports, he had not been released conditionally from prison in June or July 1986. The confusion seems to have arisen because at that time he was transferred to a punishment cell in Combinado del Este Prison, to the area known as "los candados", "padlocked cells", on the first floor of Building 3, where he was still being held at the time of the Amnesty International visit.

Rafael GONZALEZ RODRIGUEZ

Sentenced to two years for salida ilegal, trying to leave the country illegally. At the time of the Amnesty International visit, he was being held in Guanajay Prison. His sentence expired on 30 July 1988 and should therefore have been released although this has as yet to be confirmed.

Ernesto HAZA TEJERA

He was released on 13 April 1988 and is still in Cuba at present. Amnesty International had interviewed him during the visit to Combinado del Este Prison.

Pascual Andrés HERNANDEZ MURGUIA

He was released on 30 June 1986 and is said to be now living in Pinar del Rio.

Ariel HIDALGO GUILLEN

He was released from prison on 4 August 1988 and is now in the USA. He had been sentenced to eight years' imprisonment for enemy propaganda in 1981 and at the time of the Amnesty International visit was held in Combinado del Este Prison where it was possible to interview him. His sentence was due to expire in August 1989.

Rafael LANZA LOPEZ

He was released from prison at about the end of July 1988 and is believed to still be in Cuba at the time of writing. He had been sentenced to eight years' imprisonment for enemy propaganda in 1982 and was being held in Combinado del Este Prison at the time of the Amnesty International visit. He was one of the "nuevos plantados", new "plantados" (see p.18). He was interviewed by Amnesty International during the visit. His sentence was due to expire in June 1990.

Edmigio LOPEZ CASTILLO

He was released on 26 June 1987 and was able to leave Cuba for the USA in early June 1988.

Gregorio PEÑA ESTRABAO

He was released on 6 October 1987. He had been originally sentenced to six years for enemy propaganda in 1982 and although he apparently tried to escape at some point, his sentence is said to have been slightly reduced as a result of good behaviour. He is believed to have remained in Cuba.

Osvaldo RIVERON GORT

He was released on 8 February 1988 and is believed to have remained in Cuba.

Amado Jesús RODRIGUEZ FERNANDEZ

Sentenced to 15 years 6 months in 1984 for rebellion, enemy propaganda and speculation, he was transferred from Boniato Prison to the National Prisoners' Hospital at Combinado del Este Prison on 28 March 1988, apparently for a check-up. Amnesty International was able to interview him there. He told the delegates that since his re-arrest in 1984, he had been held almost continuously in punishment cells at Boniato prison, either in Pabellón 4C or in Boniatico, except for short periods in the prison hospital (sometimes also in a punishment cell located there), because of his refusal to join the "re-education" program. He had previously been arrested in 1961 and sentenced to 30 years for "counter-revolutionary offences. At that time he was held with the "plantados históricos," historical "plantados", (see pp.3 and 17); since his return to prison, he has repeatedly requested the authorities to put him in with the remaining "plantados históricos" in Combinado del Este Prison.

From the information available to Amnesty International, the charge of rebellion at his second trial appears to be unsubstantiated and to have been brought against him under pressure from the Department of State Security. The charge of enemy propaganda was based on anti-government leaflets he was planning to distribute in the street although at the time of arrest, he had reportedly not yet done so. Amnesty International believes that he is a prisoner of conscience imprisoned for having expressed his peacefully-held political beliefs. His sentence expires in January 2000.

Andrés José SOLARES TESEIRO

He was released on 13 May 1988 and is now living in the USA with his family. He was an Amnesty International Prisoner of the Month in May 1987. Amnesty International had been able to interview him in Combinado del Este Prison during the visit.

Julio VENTO ROBERES

Still held at Combinado del Este at the time of the Amnesty International visit, Julio Vento Roberes told Amnesty International that he was arrested in November 1982 in the Havana Psychiatric Hospital, where he had been held for five years as a security measure (see p.23). In 1977 (the International Year of Human Rights), he had been accused of "enemy propaganda" for writing slogans on walls calling for the release of political prisoners,

but was ordered by the courts to be sent for psychiatric treatment for five years rather than be imprisoned. In 1982 a new case was opened against him for "enemy propaganda" on the grounds that he had written letters abroad complaining that he had not been released from the Psychiatric Hospital when his five-year term had expired and also that he had drawn cartoons criticizing certain aspects of life in Cuba. He was sentenced to eight years' imprisonment. At the time of the Amnesty International visit, Julio Vento was being held in the area of the first floor of Building 3 of Combinado del Este Prison known as "los candados", where he had been for two months. His sentence expires in November 1990.

Possible Prisoners of Conscience

Felix AGUDO ESCUDERO

He was released on 29 May 1987 and is believed to be still in Cuba.

Gustavo and Sebastián ARCOS BERGNES

Sebastián Arcos was released on 4 May 1987 and his brother Gustavo on 10 March 1988. At the time of writing, both are believed to be awaiting permission to travel to the USA.

APPENDIX II

CAPITAL OFFENCES IN THE 1987 PENAL CODE

Crimes against External State Security (Section I, Chapter I)

- Acts against the Independence or Territorial Integrity of the State (Art. 91)
- Promotion of Armed Action against Cuba (Art. 92)
- Armed Service against the State (Art. 93.1 & 2)
- Help to the Enemy (Art. 94.1 & 2)
- Espionage (Art. 97.1 & 2)

Crimes against Internal State Security (Section I, Chapter II)

- Rebellion (Art. 98.1 & 2)
- Sedition (Art. 100 a)
- Usurpation of Political or Military Command (Art. 102)
- Sabotage (Art. 105)
- Terrorism (Art. 106, 107.1 and 108)

Crimes against Peace and International Law (Section I, Chapter III)

- Hostile Acts against a Foreign State (Art. 110.2)
- Genocide (Art. 116.1 and 2)
- Piracy (Art. 117 and 118)
- Mercenary Activity (Art. 119.1 & 2)
- The Crime of Apartheid (Art. 120.1)

Other Acts against State Security (Section I, Chapter IV)

Article 124.1 (this article refers to violating Cuban territory by participating as a member of the crew or travelling on board a ship or plane in order to carry out any of the crimes established in Section I; entering the country clandestinely to carry out certain crimes established in Section I; and organizing or forming part of armed groups in order to commit any of the crimes established under Section I).

Crimes against Life and Corporal Integrity (Section VIII, Chapter III)

- Murder (asesinato) (Art. 263 and 264)

Crimes against the Normal Development of Sexual Relations and against the Family, Infancy and Youth (Section XI, Chapter I)

- Rape (Art. 298.3 - when the victim is under 12 years of age or serious injury or illness results)
- Pederasty with Violence (Art. 299.2 - when the victim is under 14 years of age or serious injury or illness results)

Capital Offences from the 1979 Penal Code which no longer appear in the
1987 Penal Code

Crimes against Peace and International Law (Section I, Chapter III)

Violation of a truce or armistice (art.117)

Crimes against international law (art.122)

Crimes against Collective Security (Section III, Chapter I)

Acts of destruction (estragos) (art.195)

Crimes against Hereditary Rights (Section XIII, Chapter V and VI)

Robbery with violence or intimidation against persons (art.386)

Robbery with violence against property (art.387)
