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RESEARCH DEPARTMENT  
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# I

## RECENT HISTORY

The French invasion of Spain in 1808 brought to a climax the process of decay which had long been undermining the former rulers of the Empire. The weakness and corruption in the Spanish upper classes and the exile of the King left a power vacuum that was filled - spontaneously - by the masses. It was they who rose up against Napoleon and fought for four years to drive back the foreign intruder. Once the occupying troops had been expelled, the ideas consecrated in the French Revolution dominated the reorganisation of the country begun by the Cortes of Cadiz, and found expression in the Constitution of 1812. In the absence of a numerically significant middle class, however, those ideas would not have survived in Spain had they not been adopted - albeit superficially - by the new force created in the chaos of the war: the Army. Military officers constituted the bulk of the Liberal Party, which appeared for the first time in the Constituent Cortes, and for the greater part of the 19th century they led the struggle for supremacy over the single most powerful institution that remained of the old order: the Church.

The Church had emerged from the Napoleonic wars with its own champion in the Carlists. This movement, centred in the north, took its name from an unsuccessful effort to depose the Bourbon king Ferdinand VII and replace him with his brother Carlos, when Ferdinand refused to restore the Inquisition under pressure from the Church. In fact, Carlism represented the deep-rooted opposition to Liberalism; to the Liberals' centralising policies at the expense of the local rights traditionally enjoyed by the Basque and Aragon regions; and to the Liberals' plan to sell off the communal lands (most extensive in northern Spain) as well as the property owned by the Church. In order to defend their rights, their lands, their Church and their 'king' against the Liberals, the Carlists were prepared to fight to the death, and Spain was submerged in civil war from 1833 to 1840 - a war that 'completed the ruin that the Napoleonic wars had begun and put all power into the hands of the Army for thirty years.' (Gerald Brenan, The Spanish Labyrinth, Cambridge University Press, 1971, p. 208).

The Liberals had managed to make inroads into the domain of the Church by disentailing a sizeable proportion of its vast estates, which passed into the hands of a nascent middle class. Furthermore, the gradual growth and modernisation of industry in Catalonia and the development of banking in the Basque country had started to broaden the economic platform of liberalism. By the time the court intrigues and favoritisms of Isabel II had at last antagonised the Army, there was widespread national support behind the military revolution which overthrew her in 1868. The generals then proved incapable of finding a suitable replacement for the throne, and the First Republic was declared in 1872 - as Franz Borkenau wrote, 'not because any one of the various political groups (with the exception of a small sector of "progressives" wanted it), but because there was no other alternative'. (Franz Borkenau, The Spanish Cockpit, Faber and Faber, 1937; Spanish edition, Ruedo Iberico, Paris 1971, p. 11).

Less than two years later, with the Carlists again at war in the North, and anarchist-led peasants in open rebellion in the South, the Republic fell because there was no reason to defend it. There was, on the other hand, every reason for the Army, the Church and the upper classes to forget their differences in the face of a very real threat to them all: the lower classes. The peasants' movement was violently suppressed and the Monarchy, in the person of Alfonso XII, was returned in 1874. From then until the end of the century, political power remained firmly in the command of the Conservatives, who occasionally alternated in Government with the Liberals. 'But in fact, there was no longer any difference whatever between Liberals and Conservatives, except that the Liberals were

anti-clerical and interested themselves in education, whilst the Conservatives professed a mild concern for agriculture and social conditions.' (Brenan, op. cit. p.5).

This peaceful status quo, based on the common interests of the political forces which had dominated the 19th century, scarcely out-lived the period of the Restoration (1874-1902). The expansion and concentration of industry, particularly in Barcelona and the North, created the conditions for a development which the Restoration had been designed to prevent: the organisation of the urban proletariat. Moreover, the Liberal 'revolution' had left unsolved the problem of the large estates in the South, owned by the aristocracy and worked by a starving and landless peasantry. Both the new industrial centres (which drew heavy migration from the poverty-stricken rural areas) and the latifundia of Andalucia were fertile ground for the spread of socialist and anarchist ideas that had begun to filter into Spain shortly before the First Republic. The first Congress of the Regional Federation of the Anarchist (Bakunist) International was held in Cordoba in 1872, and the Spanish Socialist Party was founded in 1879, followed by the Socialist trade union - the U.G.T. - in 1888. The movements were slow to gain affiliates and much of their work had to be done clandestinely, but the years following the turn of the century provide a record of their increasing strength and significance: 1902 - general strike in Barcelona; 1903-1905 - wave of anarchist strikes in Andalucia; 1909 - Pablo Iglesias, one of the founders of the Socialist Party, elected to the Cortes (Parliament); 1910 - Anarcho-Syndicalist trade union, the C.N.T. founded; 1917 - general strike of the U.G.T. and the C.N.T.; 1917-1919 - wave of anarchist strikes in Andalucia and the Levante. (Brenan, op. cit. p. 19).

By the second decade of the 20th century, Spain's political leaders desperately needed a new formula which could somehow deal with the alarming radicalisation of the working class movements, with Catalonia's demands for self-rule, and the struggle between reformists and conservatives within the Government. The solution was provided by General Primo de Rivera, who took power as dictator in 1923, abrogated the Constitution of 1876, and promised to reorganise the troubled life of the country. The dictatorship, however, lasted only as long as the wave of prosperity which followed the end of the First World War. The world economic crisis of 1929 consolidated the left-wing opposition against the regime, while Primo de Rivera himself succeeded in alienating each of the forces - the Army, the Church and the landlords - which had backed his rule as the only means of underpinning the monarchy. He fell in 1930, and when the King called municipal elections in April 1931 to test his own popularity, the result was an overwhelming Republican vote. Alfonso XIII left the country, and Spain was again declared a Republic. A provisional government of Republicans and Socialists was formed and settled down to the task of drawing up a new Constitution.

The Republic, however, threatened its enemies without disarming them while it alienated precisely those sectors on which its existence depended. The anti-clerical provisions of the Constitution (separation of Church and State; a two year limit on the annual State grant to the clergy and the closure of all religious schools) lost the support of the conservative wing of the Republicans and the Basques, and at the same time burdened the Government with the impossible task of replacing all the prohibited religious schools with State schools. The Law on Agrarian Reform attempted to break up the great southern estates, but did not propose to assist the peasants in the North and central regions who were farming tiny plots of land or paying high rents to landlords. At the same time, the repercussions in Spain of the world economic slump and the economic sabotage against

the Republic practised by business and banking interests provoked a series of strikes and outright rebellions, largely led by the Anarchists, which were in many cases violently repressed by the Government. By 1933, the irony of the position in which the Republican parties found themselves could not be more plain. These able, cultured and disinterested men who came forward to build a new constitution for their country were building in sand... everything that could be thought of was thought of - except that the people for whom it was designed might not want it. And so it turned out - for after a short trial neither the Church nor the Army nor the landowners nor the peasants nor the factory workers would have anything to do with it.' (Ibid. p. 261).

The Government resigned and new elections were held in November 1933, which ushered in a coalition of the Right and the two-year period known as the Bienio Negro (Two Black Years). A new Government was formed by the Radical (centre) Party, with the support of Jose Maria Gil Robles' CEDA (Spanish Confederation of Autonomous Rights - Conservative Catholic), and proceeded to reverse all of the wage, working conditions, anti-clerical and agrarian legislation passed by the previous Cortes. This alone would have been enough to provoke the trade unions to open war against the Republic - and the Anarchists led off with an uprising organised by the Aragonese Federation of the CNT; but when a reshuffling of the cabinet brought in a number of CEDA ministers, the UGT declared a general strike throughout Spain. Massive strikes broke out in Madrid, Barcelona and in the mining region of Asturias, all of which were repressed with extreme severity. As the parties on the Left and on the Right gathered their forces, the Centre - still holding the reins of the Government - faltered and lost all support in the Cortes. New elections were called for in February 1936.

The elections gave a closely won victory to the Left, which had gone to the polls as a Popular Front of Socialist, Republican Left, Republican Union and Communist Parties (the Anarchists voted for the Front but did not join the Government until later). The outcome convinced the Right that the Republic could no longer be tolerated, an attitude reflected in the sudden and rapid growth of the heretofore small fascist party, the Falange (founded by Jose Antonio Primo de Rivera, son of the dictator, in 1932 and merged with the JONS - Junta de Ofensiva Nacional Sindicalista - in 1934). In the months following the February elections, the Falange, certain groups of Army officers, the Carlists and the Monarchists all plotted the overthrow of the Government; and the inevitable explosion came on 18 July, when General Francisco Franco - commanding the Moroccan Army - rose up against the Republic. The 'Nationalist' rebellion quickly spread to the mainland, and the landowners, the large industrialists and the Catholic Church joined what the latter baptised as the 'sacred crusade to save Spain'. The country plunged into Civil War.

Franco, appointed leader of the Falange and chief of the Nationalist forces by a handful of generals in October 1936, received military assistance from Nazi Germany and Fascist Italy, while the Governments of Western Europe chose not to intervene on behalf of the Republic. Aid promised to the Loyalist Republicans by the Soviet Union turned out to be inadequate and equivocal. The Popular Front itself was weakened by fundamental divisions between the Communists and their allies; and by the fact that, almost immediately after the outbreak of the War, the Government confronted the possibility of a social revolution within the Republic: UGT and CNT workers in Catalonia spontaneously took over factories and organised themselves into defence militias, which were later dissolved by the Republican leaders.

After three years of fighting and the loss of a million lives, the War ended in March 1939 with the defeat of the Republic. General Franco assumed power as Chief of State, Head of Government, Supreme Commander of the Armed Forces and Caudillo (Leader) of the Falange, 'responsible

only before God and history.' All political parties and independent trade unions were banned, and their leaders arrested, executed or driven into exile. The freedoms of belief, expression, association and the press were suppressed, and those who had supported the Republic faced court martial and long years of imprisonment.

Spain remained neutral during World War II, although the Government maintained contact with the Axis Powers and sent a regiment of the Spanish Army, the Division Azul, to fight beside Hitler's troops. After the Allied victory, however, General Franco sought to erase the fascist association of his regime abroad and began to orient its foreign policy towards gaining international recognition. Excluded from the United Nations in 1945, Spain secured a Concordat with the Vatican in 1953, and in the same year signed a 20-year agreement with the United States, by which air and naval bases were leased to the U.S. in exchange for economic aid. In January 1956, she was admitted to full membership of the U.N. Spain does not belong to NATO, but is considered by its members to be a strategically important ally - hence the American bases and the agreement for military co-operation made with France in 1970.

Spanish attempts to recover English-controlled Gibraltar have resulted in the closing of the frontier separating the island from the Peninsula. But several meetings between the foreign ministers of the two countries during 1972 were seen as a step towards negotiation of what has long been a subject of Anglo-Spanish contention.

Since 1962, Spain has been actively interested in closer relations with the European Community, applying first for association and finally accepting a preferential trade agreement which went into force in 1970 (See Spain and the Economic Community, below). The same period has witnessed a cautious process of what one journalist labelled Franco's own 'Ostpolitik' with respect to Eastern Europe. Consular relations were established between Spain and Rumania in 1967, followed by similar agreements with Poland, Hungary, Bulgaria and Czechoslovakia. In September 1972, Spain and the Soviet Union signed a commercial pact providing for increased trade between the two countries and the exchange of commercial delegations: their first major treaty since diplomatic relations were severed in 1939. East Germany went even further several months later by opening full diplomatic relations with Madrid.

THE GOVERNMENT

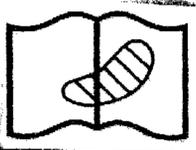
With the Nationalists' victory in the Civil War, Franco merged the political elements which had conducted the rebellion - the Falangists, the Carlists and the army officers - into the national movement, and the political creed of the Falangists became the official doctrine of the regime. It defines the Spanish State as a totalitarian instrument dedicated to the service of national integrity. All of the Spanish people shall participate in the State through the cell, the municipalities and the syndicates. No one shall participate in the constitution of a political party'. The supreme power vested in Franco during the Civil War has not been modified by subsequent changes. In addition to the Fundamental Laws\*, although current literature of the regime uses terminology such as 'organic democracy' to the Fascist 'corporate state' and place greater emphasis on 'organic unity, stability and the sacred authority of the Caudillo.

The Cortes (Parliament) was reconstituted in 1942 'to enable the people to participate in the legislative process'. According to the Constituent Law of the Cortes, two-thirds of its members (procuradores) were to be nominated by its President - himself named by Franco - and the remainder were to be elected by the municipalities, professional and academic bodies, and the trade unions. The candidates for these seats were nominated by Franco's nominees. The composition of the Cortes is based on corporate representation, and of the 563 members today, only 104 (two procuradores 'familiares' from each of the provinces) are said to represent the population at large. These familiares have been directly elected since the passage of the Organic Law, but suffrage is limited to heads of households and widows. The Cortes is essentially an advisory body - 'supreme legislative power is in the hands of the King of Spain' (Constituent Law of the Cortes) - and although it has been used as a forum by some moderate progressives, the strength of all official representatives far exceeds that of any potential opposition. A study done by a university team, under the direction of Professor Miguel Martinez Casdrado, and published in July 1972 in the magazine La Actualidad Economica, revealed that three-quarters of the present procuradores hold some other high-level administrative post - from minister to provincial ministerial official. The majority of the procuradores are themselves mayors (appointed by the Government) and 38.5% of the familiares also have top positions in the Administration. More than 13% of the procuradores sit on the boards of directors of the largest economic concerns. (La Vanguardia 11.7.72).

In 1945, after Spain had been officially excluded from the United Nations, Franco introduced the Charter of the Spanish People (Fuero de los Espanoles) in an effort to soften the fascist image of the regime. The Fuero embodies the rights and duties of all Spanish citizens, but even the limited civil liberties guaranteed therein were, and continue to be, violated in practice. The Law on the Referendum was passed in the same year, providing that the Head of State must submit changes in the Fundamental Laws to a national referendum. This law has been twice applied: in 1947, to approve the Law of Succession, under which Spain was declared a Monarchy, although Franco was to remain Head of State until his death; and in 1967,

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\* These are: the Fuero de los Espanoles, the Labour Charter of 1938, the constituent Law of the Cortes of 1942, the Law of Succession in 1947, the Law of National Referendum of 1945, the Law on the Principles of the National Movement of 1958, the Organic Law of the State of 1967, and whatever other law shall be promulgated as fundamental.



to approve the Organic Law. Apart from altering the composition of the Cortes to allow for the election of the procuradores familiares, the Organic Law made concessions in the field of organised labour, stipulated the separation of the office of Head of Government from that of Head of State and laid down the preliminary procedure for the appointment of the Head of Government. It was left to Franco, however, to decide when the separation would actually take place.

In July 1969 Franco designated Prince Juan Carlos de Borbon as his eventual successor as Head of State and Spain's future King. The speculation about how and when he would resolve the question of his successor as Head of Government finally ended with a Decree-Law announced on 18 July 1972, the anniversary of the rebellion against the Republic. It was declared that Juan Carlos would be proclaimed King 'Head of State' within eight days of Franco's death, and that the present Vice-president of the Government, Admiral Luis Carrero Blanco, would become President - or Head of Government - unless another Vice-president is named before that time - a possibility felt to be highly unlikely.

Thus, as one press commentator wrote (La Vanguardia 22.7.72), "The response of the Generalissimo to the anticipation and confidence of the Spanish people - and particularly of its ruling groups - appears increasingly clear: to fulfil his promise to leave everything 'all tied up'. In this sense the expression 'franquismo without Franco' has meaning only if 'franquismo' is understood as an historical process and movement, an ideological nucleus or doctrine; only if 'franquismo' is understood as a style of government no less 'franquista' than the future defined and already described in our laws."

Nevertheless, the social fabric of the dictatorship has undergone significant modifications since the Civil War. The shift from a policy of economic autarchy to one of economic liberalisation and growth (beginning in the 1950's) meant that Spain needed highly trained entrepreneurs, technicians, scientists and economists to meet the technological requirements of a developing country. As the universities and advanced technical schools began to provide channels of upward mobility for certain sectors of the middle class, the monopoly of power long controlled by the military career officers, the bureaucrats and the land-owning aristocracy gradually acquired new dimensions. The top layers of Spain's social structure have, however, shown a characteristic ability to adapt to changing conditions: "Spain" writes Professor Salvador Giner "has a ruling class in the strict sense of the word...Economic, political and military influence often concur in the same person. Of course, this is not entirely new and has its precedents...But the new political set-up has provided ideal conditions for the development of an upper class which is stronger than ever." (Salvador Giner, 'The Structure of Spanish Society and the Process of Modernisation', Iberian Studies, the journal of the Iberian Social Studies Association, Vol. 1, No. 2, Autumn 1972).

'Franquismo' - and its projected continuation - should be seen, then, as the form of government which serves a still exclusive network of interlocking interests. Army generals are to be found on the executive boards of the large companies, themselves controlled in great part by the banks. And the Catholic, semi-secret lay organisation Opus Dei 'has now infiltrated government, industry, banking, higher education, the press, advertising and, needless to say, the hierarchy of its own church. To give an idea of the high level of economic power in the same hands, suffice it to say that about half the capital of all the private companies of Spain is held by the same people who sit on the executive councils of the five most powerful banks. Finally, the fact must be pointed out that immense fortunes have been amassed by those who, in 1939, had little wealth but considerable political influence. This was typical of the forties and

fifties when, for instance, import licences and executive positions were distributed as political rewards. With economic laissez-faire after 1959 and recent desarrollismo (emphasis on development) this has become rarer; but on the other hand the Opus, whose power can hardly be exaggerated, has become more influential than ever." (Ibid.).

The Cabinet change in 1969 gave most of the ministries - and notably those responsible for foreign affairs and economic planning - to the Opus Dei 'technocrats', at the expense of the old-guard Falangists and the extreme Right. The technocrats are convinced Europeans and have attempted to modernise the economy in an effort to bring Spain closer to the Common Market. The speculation that economic liberalisation would lead to a liberalisation of political life and institutions, however, was without foundation, although the government has been under attack from the fanatically nationalistic Right as much for its dealings with the Western democracies as for its inability to cope with 'subversive elements' at home. The fact is that the ministers have proved to be concerned only with projecting a good image abroad, without effecting any fundamental changes in the country's internal political structures. In the words of Professor Ciner ('The Two Spains', New Society 14 October, 1971), "their slogan seems to be 'development and modernisation without democracy'".

This was made abundantly clear during 1972 in the course of the extensive public (i.e. within the Establishment) debate on Spain's relationship with the European Community (see Section IV) and on the possibility of establishing 'political associations' within the National Movement - the latter, a question on which the Government itself appeared to be divided. The creation of political associations was foreseen by the Organic Law, but specific legislation determining their existence has never been completed. The issue came to life again at the time of the renewed Common Market negotiations, with Vice-president Carrero Blanco as well as the Ministers of Public Works, the National Movement and Information representing the opposition to associations; while the Ministers of Industry and Agriculture spoke out in favour of them. As far as the majority of the population is concerned, of course, the discussion is largely irrelevant; there is an unbridgeable gap between associations and parties, and the question of political freedom is tabu in the public arena.

III  
THE ECONOMY

The development of the Spanish economy during the two decades following the end of the Civil War was determined by a policy of autarchy and extreme protectionism designed to make the country entirely self-sufficient - in part, a response to the economic blockade imposed on Franco's government after 1945, in part the result of the reorganisation of the state along fascist lines. Spaniards remember this period as 'the years of hunger': excluded from the benefits of the Marshall Plan (only Argentina sent assistance from abroad), Spain was left virtually alone to recover from the devastation of the war. Statutory restrictions were placed on foreign investment; certain industries considered of national importance received special privileges, and the state assumed the overriding responsibility for industrial growth through its direct intervention in the economic system - the National Institute of Industry (Instituto Nacional de Industria), created in 1941, by 1954 controlled 54% of the total capital of Spanish limited companies (Neil Bruce, 'A New Approach to Spanish Labour Problems', Iberian Studies, Keele University, Autumn 1972). Poor shortsighted planning, lack of financial resources, obsolete methods of production and low demand all contributed to the fact that, in Professor Giner's words, "almost the whole thing became a costly, sad and often ludicrous adventure." (op. cit.). Growth in real terms was painfully slow, and it was not until 1953 that per capita income equalled what it had been in 1935.

Spain's gradual emergence from isolation in the early 1950's was accompanied by her first moves away from autarchy and towards the economic liberalisation which since 1959 has been official policy. A stabilisation programme for the currency was initiated in that year; the Office of Economic Co-ordination and Planning was set up somewhat earlier; the legal levels of foreign participation in industry were raised and tourism was encouraged. As a result, the 1960's witnessed a period of unprecedented economic growth, averaging 7% per annum. Under the Economic Development Plans of 1964-67 and 1968-71, industrial development has been concentrated in the mining region of Asturias, the Basque Country, Cataluna and Madrid; and the most rapid expansion has occurred in the automobile, consumer goods, chemicals, steel, shipbuilding and construction sectors. Spain now ranks third in world shipbuilding, topped only by Sweden and Japan, and industrial exports have increased seven times over during the past decade. In 1971, industrial goods and raw materials for the first time exceeded agricultural products as exports (Times 11.5.72.).

Exports, however, cover only 60% of imports, and the consequent trade deficit (approximately 2,300 million dollars) would spell disaster for the economy if a solid balance of payments surplus had not been maintained since 1970 by tourist earnings, remittances by the over one million Spanish workers abroad, and foreign capital investment. The number of tourists rose from 7½ million in 1961 to 27 million in the first nine months of 1972 (compared to a native population of 34 million), and their spending alone was equivalent to more than half of Spain's trade deficit for that year (Times 11.5.72). At the same time, Spanish emigrants sent back a total of over 550 million dollars, an increase of 17.3% on the 1970 figure and 144 million dollars more than what it had been in 1961. For its part, private foreign investment - 160 million dollars in 1960 - had reached almost 1,000 million dollars by 1971 (Financial Times 18.7.72). Of this, the largest single share corresponds to the United States, accounting for 31% of the authorised foreign investments (only investment greater than 50% of native capital in any enterprise needs authorisation) during the period 1960-1971 - in absolute terms, 278 million dollars, most of it going into the chemical, oil, pharmaceutical and food and drink

sectors (Xesus Cambre Marino, 'El Capital Extranjero en Espana', Cuadernos para el Dialogo, January 1973). Other major sources of foreign capital are France, Germany and Switzerland. According to a study of the 300 largest Spanish companies, published by the Ministry of Industry in 1972, 138 of them are part foreign-owned, and in 76 the foreign share is over 50%.

Spain's 'economic miracle', as the advances of the past decade are frequently referred to, brought about significant changes in the pattern of over-all occupational distribution. The proportion of the population employed in agriculture dropped from 41.3% in 1960 to 29.2% in 1970; the corresponding figures for industry are 31.4% and 38.1%; and for services, 27.3% and 32.7% (Jose Maria Ordeig, Espana hacia una economia industrial quoted in La Vanguardia 18.7.72). Undeniably, these developments have meant that a greater number of Spaniards now enjoy a relatively higher standard of living than they did ten years ago. According to the latest report published by the National Institute of Statistics (La Vanguardia 23.1.73), per capita income passed the 1,000 dollar mark in 1972; and if the ambitious predictions of the III Development Plan (1972-1975) are fulfilled, far-reaching improvements will be made in the fields of education, social security, housing, urban services, agriculture, industry, transport and communications - among others. As one observer pointed out, "to accomplish this, Spain will have to continue to show an economic growth rate at least as spectacular as she has shown in the past decade. The gross national product will have to keep increasing at an annual rate of about 7%. Spanish builders will have to build three million new homes in the next eight years, and new investments will have to be made at a rate of about 9% a year." (Harry Debelius, Times 11.5.72)..

The 'economic miracle', however, is threatened by its high degree of dependence on external factors: tourism, emigration and foreign investment. While it is unlikely that Spain will cease to attract tourists in the near future, the ability of other Western European countries to absorb Spanish unemployment indefinitely is more precarious, as was seen in 1966 when a recession abroad sent more workers back to Spain than those who emigrated. The conditions which originally drew foreign capital to Spanish industry - easy terms, low wages, legislation outlawing strikes - are still strong incentives for companies anxious to escape rising labour costs and trade union militancy in their own countries; and others will probably follow the Ford Motor Company into Spain, after a Government decision in November 1972 giving general authorisation for foreign car manufacturers to establish plants. (It was announced at the time that 90% of the Fords made in Spain would be exported). Nevertheless, investors cannot ignore the fact that Spain is no longer the conflict-free industrial haven it was in the past. Although all strikes for 'political' motives are illegal and measures to repress them have, if anything, become more severe, the number of strikes in 1970 was double that of 1963. One Spanish newspaper reported in March 1972 that the record for 1966 was 108 strikes involving 36,900 workers with 159,000 working days lost; in 1970 these statistics had jumped to 1,432 strikes, involving 460,900 workers, with a loss of 1,091,100 working days.

By far the most serious and immediate threat to the 'miracle' comes from internal factors, which Spain's leaders are often at great pains to hide or distort. Presenting the 1973 Budget to the Cortes, Treasury Minister Monreal Luque inadvertently pointed to the real trouble areas of the economy: 'The expectations for the evolution of the Spanish economy in 1973 are determined by an optimism based on the conviction that a high rate of GNP growth, in real terms around 7%, is possible. This growth will be encouraged by the spontaneous forces of the economic system, that is, by the demand of consumers and business and by the rise in exports.' The inherent weaknesses of these 'spontaneous forces' can well work to undermine future growth.

The recently increased daily minimum wage in Spain is still only 156 pesetas (about 95 pence), which, according to unofficial sources (cited by Antonio Garcia de Blas, 'Salario Minimo: historia de una decepcion', Cuadernos para el Dialogo, June 1972), applies to some two million workers out of a total active population of twelve million, a study published by the Spanish magazine, seccion Empresarial, in January 1973 reported that the daily minimum required by a Madrid family with two children is just under 410 pesetas. Industrial progress has furthermore done little to change standards of living in the rural areas. In a country where over a quarter of the active population is employed in agriculture, more than half the cultivated land continues to be in the hands of 1.8% of the landowners. The persistence of the vast latifundios in the South, with their concomitant seasonally unemployed and landless proletariat, is matched at the other end of the scale by the perennially unsolved problem of the minifundios prevalent in the northwestern region of Galicia, where the centuries-old division of land into tiny plots has kept an estimated 1/3 of the population in utter poverty (Informe sociologico sobre la situacion social en Espana, Madrid: Euramerica, 1966; quoted by Giner, op. cit.).

Returning to the urban areas, one of the most obvious causes of the increase in industrial unrest over the past few years has been the constant rise in the cost of living (obvious, not least of all, to the Government: a confidential communique from the Ministry of Labour in November 1971, with instructions on how to deal with future strikes, was prefaced by an index of the rise in prices since 1969 and the prediction that the spiral would continue). Official sources report a general increase of 9.7% in 1971; food prices rose by 12.5% over 1970 levels. The forecasts for the future are no more optimistic. A study published by Fortune Magazine in mid-1972 found that by the end of the year Spain would score the highest of eighteen Western countries in price increases, with 8%. The Spanish Institute of Fiscal Studies warned of an 8.5% rise, in spite of the 4% limit foreseen by the III Development Plan 1972-75. It is worth noting that in the Organisation for Economic Co-operation and Development 1972 Report on Spain, wage increases figured fifth in a list of seven causes of rising prices; among others were price supports for agricultural products, deficiencies in the distribution sector and the delayed effect of measures which accompanied the 1967 devaluation of the peseta.

In April 1972, La Vanguardia Espanola, a major Barcelona daily newspaper (subjected, as is all the press, to Government censorship), printed a letter from the Presidents of the National Family Associations protesting against the rise in the prices of basic necessities such as milk, fish and vegetables; in some cases prices increased by as much as 40% between 1970 and 1971. The letter went on to point out that wages had remained stable over this period or had not increased enough to catch up with prices, while unemployment rose by 33% in 1971. At the same time, it was noted, those who are employed must work 10 to 14 hours a day by doing overtime or holding down several jobs just to be able to support their families. The fact that such a letter was published at all is significant, and in an editorial comment some days afterwards, La Vanguardia not only called attention to the serious discrepancy between official euphoria about the state of the economy and its reality, but also stressed that the letter had actually been addressed to the Bishop of Oviedo, President of the Catholic Church Commission on Social Action - indicative of the general distrust, at least among lower wage-earners, of the Government's ability or willingness to solve these problems.

If 'distrust' considerably understates the mood of certain sectors of the working class, 'apprehension' would better describe the attitude of the small and medium-sized industrialists who comprise the overwhelming

majority of Spanish entrepreneurs. 99.56% of industrial concerns employ less than 250 workers. According to the Ministry of Industry, the 100 largest companies in 1970 employed 12% of all workers in industry, accounted for 50% of all investments and represented a quarter of total industrial production; the corresponding figures for the top 300 concerns in 1971 are 16.3 of industrial labour, 73.7% of investment and 31% of production. 12% of the 300 companies subsidised by the Instituto Nacional de Industria, but they were responsible for 22.4% of total sales in 1971, and in some branches - such as shipbuilding and automobiles - I.N.I. firms brought in 50% of the sales. Increasingly squeezed out by highly concentrated, large-scale industry, the small and medium operators are the most vulnerable to the kind of economic slumps which characterised the second half of the 1960's. They also have the most to fear from the Common Market if Spain's high tariff barriers protecting industry ever come down.

But even the Spanish industrial giants are dwarfed by their counterparts in the rest of the developed world. Only 15 companies have a place among the first 500 European concerns; the largest American firm is 65 times the largest European, 32 times - the size of the largest Spanish firm. General Motors in 1971 produced 2.5% more than all 300 top Spanish industries put together. Furthermore, a closer look at the 300 reveals that greatest profits in 1971 were made in precisely those sectors which have high levels of foreign participation, while the mainly state-owned mines and shipyards figured at the bottom of the profits scale. It also shows that a bare .6% of over-all returns was invested in technological research - significantly, 70% of that investment was made in areas either dominated by foreign capital or heavily dependent on foreign expertise: chemicals, petroleum, electric goods and automobiles.

The general picture, then, is one of fundamental structural imbalances and deficiencies which maintain Spain in a position of weakness vis-a-vis her chief markets and competitors. In addition, technocratic management of the economy has not been as enlightened as was hoped. As economist Jose Jane Sole commented, 'Since the system contains rigidities which produce inflation, (the Government) tries to cure the ills with monetary measures and countermeasures in a policy of stop-go.... The provocation time and time again of the same fluctuating movement of expansion-recession over a number of years demonstrates a clear lack of imagination in the handling of economic policy.' (La Vanguardia 19.9.72). Bank directors, chambers of commerce presidents, official economic experts join administration spokesmen in pointing confidently to the fact that Spain led Japan, the United States, France, Germany, Italy and Britain in growth of industrial production and exports in 1972 (after a relative set-back in 1971); and all seem convinced that, for development to continue, 'Spain has no alternative other than Europe'. In view of the consequences of entrance into the EEC - even if it were politically possible (see Section IV) - and exposure of the Spanish economy to unprotected competition, that alternative will not be viable unless there is not only an improvement in imagination, but also a radical change in the premises of economic policy.

## SPAIN AND THE EUROPEAN ECONOMIC COMMUNITY

In February 1962, Spain's then Foreign Minister, Sr. Castiella, wrote to the President of the EEC Council of Ministers to say that 'the proximity of my country to the Community and the contribution to European cohesion which its geographic position represents have led my Government to ask for an association, with the possibility of becoming one day full integration...' In the words of Juan Luis Iglesias, post-war Spain had for the first time discovered that she was a European country, not only in the geographic sense, and took the important decision to make a concerted effort to live in and with Europe. ('Comunidad Economic Europea: Razones y ejemplos de los obstaculos para la admision de Espana', Cuadernos para el Dialogo, Coleccion Los Suplementos, No. 34). Germany and France supported the Spanish application, maintaining that association would favourably affect Spain's political evolution; Italy, the Netherlands, Belgium and Luxembourg opposed any kind of association, on the grounds that for a European country, association carries with it the promise of eventual integration, and the political principles of Spain are fundamentally different to those of the Community.

It was not until 1964, however, after Spain had sent a second letter to the Council of Ministers (now only asking for an examination of the relationship which might be established between Spain and the Community), that the Council authorized the Commission to initiate exploratory conversations about the possibilities of reaching a commercial agreement. During the several years that followed, Spain's pressure for a preferential trade agreement, at the least, was backed up by two main points: that the new Press Law of 1966 put the lie to the unfounded impression some outside observers still held of the country; and that the liberalisation of the Spanish economy had been carried out with an eye to integration, the lack of progress towards which would necessarily result in a reversal of that policy. (A. Alonso, C. Garcia, El acuerdo Espana-Mercado Comun, Madrid, 1970, quoted by Iglesias, Ibid.) Formal negotiations began in 1967 and were concluded in 1970 with the signing of a trade agreement which provided for the gradual reduction of tariffs on many Spanish exports to the EEC over two stages, the first stage to last six years and the passage from the first to the second to be made 'by mutual accord of the parties insofar as the conditions are fulfilled'.

The agreement itself, therefore, only applies to the first stage, the terms of the second stage to be determined by further negotiations, and it can be rescinded by either of the parties on six months' notice.

Given the variety of relationships which the European Economic Community may establish vis-a-vis the rest of the world - tariff agreements; trade agreements (Spain and Israel); agreements of cooperation with any international organisation; treaties of association with non-European countries, not leading to integration (Tunisia and Morocco); treaties of association with European countries, with future integration implicit in them (Greece, Turkey and Malta) - the Spanish Government has clearly not achieved the arrangement for which she originally applied. Nor does the 1970 trade agreement fully redress the disadvantageous position in which the Treaties of Rome placed the Spanish economy. On the contrary, it has been shown that Spain, in terms of tariff concessions, is giving approximately 75% more to the Community than it is receiving in return. 70% of total Spanish exports of citrus fruits, for example, go to the Common Market; oranges are covered by a 40% tariff reduction, but only as long as the difference in the prices of reference does not surpass a certain level. Moreover, G.A.T.T. regulations prevent the EEC from granting Spanish fruits preferential treatment over those from third countries; and the Tunisian and Moroccan treaties of association, together with the Israel preferential trade agreement, mean that Spain is still having to confront a considerable amount of competition within the Community. (Ramon Tanames, Le Monde

25.7.72).

Faced with the imminent expansion of the Common Market 'Six' to 'Nine' at the beginning of 1973, Spain pressed for - and obtained - new discussions about the terms of her agreement, particularly regarding products such as citrus fruits which in the past entered British markets almost duty-free, but after British accession would be subject to the higher EEC tariff. A temporary protocol, additional to the 1970 agreement, was concluded at the end of January 1973 and provides for the exclusion from the Community tariffs of Spanish exports to Britain, Ireland and Denmark, pending the negotiation of a revised EEC/Spain agreement to come into effect in 1974, within the framework of the Common Market's global policy for the Mediterranean countries. Despite the fan-fare which accompanied the signing of the protocol, the end result of long months of intensive diplomacy in Brussels again fell far short of the hopes fostered by the Government in Madrid.

The wealth of official pronouncements, which intensified throughout the renewed discussions, reveal that those hopes are firmly attached to Spain's eventual integration into the Common Market, both as an economic necessity and as the natural consequence of being a European nation. Thus, in response to a question put in the Cortes early in 1972, one minister stated that government policy with respect to Europe was oriented towards the perfecting of the preferential agreement 'with a view to its transformation into one of a different kind, which would imply the integration of Spain into the European Economic Community...after the necessary period of transition for the adaptation of our structures...We should also emphasise that the already existing link with the Community is what will help the Government to plan, without urgency but also without undue delay, the transformation of the present agreement into one which specifically leads to the full participation of Spain in the European process of integration'. (La Vanguardia 27.2.72).

The structures which will have to be adapted in order that Spain participate fully are, it is made very clear, exclusively economic ones, and Government spokesmen affirm that modification of Spain's 'unique political system is not a prerequisite for association or integration. Sr. Fernandez Miranda, Minister for the National Movement, took this line of argument to its inevitable extreme by proclaiming in a speech to the Cortes about relations with Europe that 'Spain does not and will never accept the imposition of political conditions, which is, besides, radically undemocratic'. (Vanguardia 7.11.72)

No amount of official optimism, however, can change the realities of the situation. In the first place, Spain has not been given a treaty of association - which, for European countries, is the only channel open to full membership in the Community and would have been the form of relationship applicable to her if economic conditions were the only obstacle to integration - but as from 1974 will have to deal with the EEC from an essentially non-European position, i.e. within a global Mediterranean agreement. As one journalist commented, "we're putting more time and distance between us and the EEC. Leaving a global Mediterranean treatment to return to an individual European treatment is an operation which will meet with resistance when it has to be done one day out of the pure necessity for survival."

Secondly, to the extent that membership in the European Community is solicited by outside countries, and not vice-versa, the applicants are expected to conform to the standards and structures common to that Community. Spain, by virtue of the nature of its present political

system, neither meets the standards nor fits into the structures. The Nine "constitutionally recognise the people as the source of Political Power, of sovereignty, and added to this constitutional declaration is the effective practice of their democratic traditions" (Iglesias, *op. cit.*); while in Spain, supreme legislative and executive power is concentrated in the Head of State - the Cortes collaborates with the Executive, which they do not control, and their function to 'elaborate and approve laws' remain "subordinate to it. The Spanish 'organic democracy', or whatever name is given to a one-party state where the freedom of political association through parties is prohibited, is also poles apart from the parliamentary democracy of the member countries of the Community. Spaniards may meet and associate freely, as long as their objectives are not 'contrary to the Fundamental Principles of the (National) Movement and other Fundamental Laws...and any others which imply a danger to the political social unity of Spain'. (Article 1, paragraph 3 of the Ley de Asociaciones of 1964). Minister Fernandez Miranda summed up the differences succinctly: 'Political associations have no place in our constitution... In Spain we have a unique political system. There does not exist, either in the Western world or in the East, or in the countries of the third world, a similar political order. Political representation in the Western-style democratic countries happens through political parties; in Spain there are no parties.' (cited by Juan Luis Iglesias, *op. cit.*). As Iglesias points out, it is not a matter of Community member countries having a specific number of political parties, but rather that 'the Parliament, or its equivalent, authentically reflect the varied political aspirations of the people, expressed by means of the free election of their representatives'. (*ibid.*)

Those who insist that, in spite of the above and other points, the Treaties of Rome do not make the political structure of a candidate country one of the conditions for admission would do well to consider the case of Greece, whose treaty of association has been frozen since the 1967 coup. As for Spain, the words of Professor F. Dehousse in the Belgian Senate in 1964 leave no doubt in this respect: '... the very technique of the Treaties of Rome prohibits a totalitarian state, whichever it is, from participating as a member in the functioning of the Communities, which involves a whole series of machinery and institutions lacking, by definition, in a totalitarian state. I am thinking concretely of trade union freedom. This freedom is inscribed in the Treaties of Rome, and particularly the one which establishes the EEC...A one-party regime is incompatible with the democratic concepts that form the very basis of the European Communities. In all sincerity, gentlemen, it is unthinkable not only for ideological reasons, but also because (the admission of Spain) would make the present treaties inoperable.' (quoted by J. L. Iglesias, *op. cit.*).

Spanish Europhiles may be encouraged by statements in their favour, such as President Pompidou's affirmation at a press conference in late 1972 that France supported Spain's entrance as soon as possible and rumours that the British Government would back Madrid from within the Community in return for a settlement on Gibraltar. It is interesting to note, however, that Pompidou's enthusiasm was generally looked upon as 'bad politics' in Spanish official circles, calculated to elicit the reaction it did from the Danish Prime Minister, who promised that his country would use its veto in the Council of Ministers against an attempt to bring Spain into the Community. In doing so, Mr Krag highlighted yet another, no less formidable obstacle to the integration of any new member, and judging from the consistent attitude of his colleagues in the Benelux countries and Italy, the regime of General Franco can look forward to no more than a revised trade agreement with Europe in the future.

## THE CHURCH

During the Civil War the Roman Catholic Church lost the full weight of its authority to the Nationalists. The Republican Government had been strongly anti-clerical, while the Falange in 1937 proclaimed 'the incorporation of the Catholic faith in national reconstruction' as one of its fundamental principles. Most of the clergy preached loyalty to the 'sacred crusade', in defence of its own interests, and priests and religious orders were victimised in areas under the control of the Popular Front. Only in the Basque Country, where the Church has always been much more integrated into the life of the community than in the rest of Spain, where support for the Republic was won by its recognition of Basque autonomy, did the clergy oppose General Franco's revolt.

At the end of the Civil War, the traditional privileges of the Church were restored. Protracted negotiations between the Vatican and the regime culminated in the Concordat of 1953, which provides that the Church shall control all instruction in schools, that religious education shall be compulsory, that Church property shall be free from taxation and immune from access by the police, that priests may not be tried in State courts without the advance permission of their Bishops, and that such trials shall be held in camera. Under the Concordat, bishops are appointed by the Church after nominations for office have been submitted for secular approval.

The close links between Church and State have been questioned by certain sectors among the Spanish clergy since the early 1960s and are now under severe strain, as a new generation of seminarists, influenced by the enlightened encyclicals of Pope John XXIII and the Vatican's subsequent commitment to the promotion of social justice, have grown to be a strong force within the Church as a whole. Overt dissent appeared first and most noticeably in the Basque Country: in 1960, 339 Basque priests signed a letter to their bishops protesting against the denial of civil liberties, the suppression of free trade unions, political imprisonment and the torture of prisoners after arrest. They were disciplined by their superiors, but a large number of Basque priests have continued to sympathize with the struggle for political freedom and Basque autonomy. Some have become involved with the Basque nationalist organisation ETA, and those arrested as a result have faced long terms of imprisonment (the most outstanding example of the latter was the Burgos Court Martial in December 1970, where two priests were tried along with ETA militants, all accused of 'banditry and terrorism').

Elsewhere in Spain, Catholic workers' organisations such as HOAC (Hernandad Obrera de Accion Catolica - Workers' Brotherhood of Catholic Action) and JOC (Juventud Obrera Catolica - Young Christian Workers), originally established under the wing of the Church to serve as channels for the distribution of charity, later began to focus their activities much more on the defence of workers' demands and - particularly in the northern regions - joined with members of the Communist Party at the beginning of the 1960's in the Workers' Commissions (see below). Today, Catholic workers collaborate with the different clandestine trade union organisations in mobilising strikes and demonstrations in many parts of Spain. HOAC leaders in Santander were arrested in 1968 for having helped local Communists to duplicate 'illegal propaganda', and again in 1972 were indicted by the Public Order Court on similar charges.

The criticisms of the regime first voiced by the lower clergy have now gained the support of leading members of the episcopacy. An increasing number of bishops have demanded the separation of Church and State; and the first national assembly of bishops and priests held in September 1971 passed a manifesto calling for the recognition of fundamental human rights in Spain, as well as a resolution asking pardon for the Church's role during the Civil War. The new Archbishop of Madrid, Cardinal Enrique y

Tarancon, who took office in December 1971, is an outspoken advocate of political freedom. For its part, the Government has threatened to withdraw the fiscal privileges of the Church - which include a subsidy of over £9 million per annum and tax concessions. Negotiations for the revision of the Concordat have been in progress since 1969, with the liberal Spanish clergy pressing for the abolition of the State's right to veto episcopal appointments. The Vatican has strengthened the progressive elements by the appointment of temporary auxiliary bishops in cases where the Government's approval of a candidate is in doubt; and in a major reshuffle of bishops at the end of 1971, the Government accepted without opposition the candidates selected in Rome, although important posts in the hierarchy are still held by conservatives.

In spite of the influence of the 'traditionalists', the November 1972 Episcopal Conference produced a document (approved, after long deliberation and considerable dispute, by a majority vote) which re-defined the position of the Church regarding relations with the Spanish State. While defending its right to financial support from the Government, the Bishops called for the mutual independence of Church and State; an end to the State control over appointments - in exchange for the Church's renunciation of its special legal status (the fuero); the amendment of certain fundamental laws to exclude the presence of churchmen in political bodies and government offices (three bishops are designated directly by the Head of State to serve in the Cortes, and one sits on the Council of the Realm); and the wider application of the law on religious freedom, 'so that the rights of conscience may be guaranteed from all discrimination.' Far-reaching as these demands are, the Bishops were careful not to place themselves in open confrontation with the Government; and more controversial political issues, discussed at the Conference, were eliminated in the final version of the declaration. Another document, published by the Episcopal Commission on Justice and Peace early in 1973, however, launched what some observers termed the strongest attack made against General Franco since he came to power. Affirming that genuine peace was 'impossible in Spain with the political structure of the Franco regime', it advocated freedom of association, of assembly, of expression, the recognition of the right to conscientious objection and the right to strike. Not surprisingly, the Justice and Peace document was virtually ignored by the Spanish Press, and the monthly journal Cuadernos para el Dialogo, which had printed the full text in its January issue, was confiscated before it reached circulation.

Such developments within one of the principal bastions of the established order in Spain are, by any measure, significant, but their long-term implications are difficult to assess. It is worth noting, for example, that the Conference document was welcomed, with obvious relief, by several of the major Madrid newspapers as providing a mutually satisfactory way out of a now obsolete and tension-fraught alliance. On the whole, there is nothing 'revolutionary' in the Bishops' proposals, which are frequently backed up by references to Vatican Council II ('Church and State are independent and autonomous - each with its own territory') and recent papal encyclicals. The continuation of the Government subsidy is justified on the grounds of the many services provided by the Church in the fields of education, culture, public morality and social peace - services that benefit all citizens whatever their religion and thus are not determined by whether or not Catholicism is the official creed of the State (the Bishops point out that the suppression of the subsidy during the Republic was based on the mistaken concept that the Catholic Church in non-confessional States does not provide a public service to society in general). In defining the economic arrangement as collaboration - rather than the State protection of the Church - the Bishops effectively countered the thinly veiled attack made at the time of the November Conference by Vice-President

Carrero Blanco, who warned that the Church should not forget what General Franco had done and spent for Spanish Catholics during and after the Civil War. Friendly collaboration is, in fact, the prevailing theme in the Episcopal declaration, and was echoed in the tone of the discussions held at the Vatican between Foreign Minister Lopez Bravo and the Pope a few days before the document was published. Reportedly sent to 'defuse the holy dynamite under Franco's throne', Lopez Bravo described the meeting as 'cordial and positive' and a 'broad examination of the questions interesting the Church and the Spanish State.' (Catholic Herald 26.1.73).

What can be concluded from the present situation, then, is that the Catholic and the political hierarchies are engaged in establishing the blueprint for a new and more flexible relationship, adapted to today's realities. This does not mean that the commitment to social justice on the part of individual clergymen will not bring them into increasingly direct conflict with the Government - and the loss of the fuero will remove priests' immunity from arrest without the consent of their bishops. (The Barcelona Commission of Justice and Peace was indicted in late 1972 on charges of illegal propaganda for having produced a report on torture of prisoners; 24 priests from the province of Navarra were called to testify in police headquarters after a sermon sharply criticising the social and political structures of the regime and calling for an amnesty of political prisoners was read in seven local parishes in early 1973). Severance of the political bonds linking Church and State should, however, prevent future clerical pronouncements on temporal matters from threatening the internal stability of Franco's regime.

## VI

### TRADE UNIONS

The organisation of both workers and employers in state-controlled, vertical syndicates, which all engaged in a given industry are obliged to join, is one of the central characteristics of the corporate state. The Spanish Labour Charter of 1938, drawn up by the National Council of the Falange, established that 'the national trade union organisation of the State shall be based on the principles of unity, totality and graduated authority'; that 'all factors of economic life shall be incorporated in vertical trade unions according to branches of production or services...'; and that 'the direction of the unions shall devolve necessarily upon the militant members of the Spanish Falange of the Traditionalists and the JONS.' The Trade Union Unity Act of 1940 specifies that 'the Trade Union Organisation of the Spanish Falange of the Traditionalists and the JONS shall be the sole organisation which the State recognises as competent to transmit to it the economic and social aspirations and requirements of the elements of the nation which are engaged in production and in turn to transmit to them its economic rules; the State shall not permit the existence of any other organisation with similar aims.' According to this act, all associations previously formed to represent workers and employers were to be incorporated into the Trade Union Organisation of the Movement; and the Basic Act concerning the Trade Union Organisation of 6 December 1940 outlined 'the structural base lines of trade unionism, the ranking of its various bodies, the scope of its functions and its relations with the State and the Movement.' The amendments to the 1938 Labour Charter brought in with the Organic Law of 1967 made certain changes in terminology - eliminating the direct references to 'vertical unions', for example, and the requirement that all trade union officials must be active members of the Falange - but the basic structures and principles were conserved, and the close relationship between the Government and the National Syndical Community is maintained through the Minister for the Trade Unions (the Sindicatos), who is responsible to the National Movement and the ultimate authority on all trade union activities and decisions taken affecting wages and working conditions.

Before the Civil War, the Spanish working class in the industrialised areas of Catalonia, Asturias and Madrid was highly organised, dividing its allegiance between the Socialist U.G.T. (Union General de Trabajadores) and the Anarchist C.N.T. (Confederacion Nacional de Trabajo). Both were disbanded by decree in September 1936 in the Nationalist zones, and an act of 9 February 1939, which continues in force, prohibited the reconstruction of the C.N.T., the U.G.T. and the Basque S.T.V. (Solidaridad de Trabajadores Vascos). Their members were severely persecuted by the Nationalist forces; the C.N.T. as an organisation was almost completely destroyed, and many of the U.G.T. leaders fled to exile in France. For the next twenty years it appeared - at least from abroad - that the tremendous militancy of the pre-war trade unions had been totally crushed. In fact, the only evidence of the slow and precarious process of rebuilding cadres underground were the trials, throughout the 1940's and 1950's, of C.N.T. and U.G.T. members who had managed to escape imprisonment after the war or had returned to Spain clandestinely. A large-scale strike broke out in the Basque Country on 1 May 1947, the first since Franco came to power, but it was not until the end of the '50's that working class opposition to the regime began to make its weight felt.

Existing labour legislation, however, provided no channels through which such opposition could be 'safely' directed. A decree passed on 18 August, 1947 allowed for the setting up of work councils or jurados de empresa, committees within each industrial enterprise employing more than fifty people (now obligatory in all concerns of 100 workers or more) and composed of representatives from management, technicians and workers. Described as the 'legal instruments of participation' in the factories, the jurados - according to Article 2 of the Decree - 'in no case may...act in any way

which might limit the powers of the director of the company, who is responsible to the State for the fulfillment of his elevated mission.' As Neil F. Bruce observed, the functions of the Jurados do not surpass 'the provision of advice and information and...ensuring subordination...they represent a further stage in the regime's disregard for the realities of management and labour, and their complete integration in each sector of industry.' ('A New Approach to Spanish Labour Problems', in Iberian Studies, journal of the Iberian Social Studies Association, University of Keele, Vol. 1, No. 2, autumn 1972). Indeed, the director of the concern acts as chairman of the jurado, calls its meetings, decides who has the right to speak and rules when a vote should be taken.

Spain became a member of the International Labour Organisation again in 1956 after having left in 1941, and - partly because of the need to conform to minimum I.L.O. standards; partly as a result of the realisation that the trade union machinery set up after the Civil War was totally inadequate to resolve the very real conflicts which arose between workers and management - collective bargaining and collective agreements were made legal by the 1958 Ley de Convenios. Article 222 of the Penal Code (which defined all strike action as seditious) was modified slightly in 1965 to permit labour conflicts under certain circumstances, and the 1966 regulations governing trade union elections lifted some of the restrictions placed on candidates for lower level posts.

The changes made were, of course, extremely limited. Today, all effective powers are still exercised by State-appointed officials, and all collective agreements must be negotiated within the Sindicatos between the representatives of management and workers, under the strict eye of the Government. The State reserves the right to control the percentages of wage increases; and in the event of a break-down in negotiations, a 'collective conflict', the dispute is submitted to the Ministry of Labour for compulsory arbitration. All negotiated contracts must be sent to the Ministry of Labour for official approval, which can be refused even after agreement has been reached between the negotiating parties. Independent action by the workers in support of their demands is considered 'political' and outside the law. The scope of the collective bargaining machinery was, and continues to be, determined by the Government's objectives in introducing the innovation: '...it represented a means of modernisation designed to lend greater flexibility and realism to the process of fixing wages and conditions of work while at the same time promoting a process in which employers, stimulated by the workers' claims, would be obliged to rationalise their production methods and improve output. The guiding principle was thus one of greater productivity, with the aim that any increase in labour costs should be absorbed through improvements in the structure of enterprises and in operating procedures. Collective bargaining was also intended to offer a proper framework for the settlement of labour disputes, thereby averting any extremes which might otherwise arise from a system ignoring the elements of conflict inherent in the sphere of employment.' (The Labour and Trade Union Situation in Spain, International Labour Office, Geneva, 1969).

These modifications in labour legislation did not, however, succeed in braking the momentum which was gathering within the Spanish working class. The volume of industrial conflicts rose steadily during the 1960's, and with it, the development on a national scale of two major clandestine workers' organisations within the factories. The Comisiones Obreras (workers' commissions) were formed in the early '60's jointly by members of the Communist Party and workers involved in the Catholic organisations fostered by the Church (see above); after 1965, the Comisiones - or at least their leadership - came under the control of the Communist Party of Spain. The U.G.T., on the other hand, has promoted the growth of comites de fabrica (factory committees), which represent a form of democratic workers' organisation completely outside and in opposition to the Sindicatos. Here the programmes and strategies of the two groups differ: the Comisiones have agreed to participate in the trade union elections permitted by the

Government, thus gaining a number of the low-level posts within the Sindicatos, while the UGT has put forward a policy of total boycott with respect to the official trade union institutions, arguing that it is impossible to change the Sindicatos from within and that those who try to do so are bound to be removed by the regime. In effect, many of the delegates (enlaces) elected by the workers who refuse to accept the terms proposed by management are arrested or suspended from their jobs. At the same time, employers in some areas have been forced to recognise the fact that the Sindicatos are not representative (particularly in view of the large degree of abstentions in the 1971 Sindicatos elections) and to negotiate directly with the workers, bypassing the official machinery.

Although the Comisiones Obreras and the U.G.T. are the largest of the clandestine workers' organisations, a number of smaller groups function locally or among certain sectors of the working class. Examples are the Basque S.T.V., the C.M.T., (now much reduced), the various Catholic workers' organisations and the Trotskyists. Successful efforts have been made to unite some or all of these in certain regions, and workers from every grouping co-operate in the organisation of strikes and demonstrations.

During the last five years, most industries have been affected by strikes in support of higher wages, better working conditions and - above all - the freedom of association. The number of hours lost through industrial conflicts, which in 1970 totalled nine million, more than doubled to reach 22,945,000 in 1971, according to the Ministry of Labour. From September 1971 to September 1972 alone, major strikes occurred at the Madrid construction sites, the Barcelona SEAT factory, the Asturian mines, the BAZAN national shipyards in El Ferrol (Galicia) and the Hispania-Citroen plant in Vigo. Each represented a massive rejection of the Sindicatos and the official negotiating channels on the part of the workers; each sparked off a wave of solidarity stoppages, demonstrations, meetings, propaganda and money collections throughout the country. (In Vigo, for example, out of the 16,500 who stopped work, only 4,000 were actually involved in the CITROEN dispute).

Considering the framework within which such actions have taken place, this is a remarkable record. There is another record, however: dismissals, arrests, heavy fines, prison sentences and even deaths. One striking construction worker was killed by the armed police in Madrid, one in Barcelona, two in El Ferrol; and the Government has at its disposal a formidable legal armoury to deal with all trade union activity which is not controlled by the Sindicatos. 'Political' strikes are punishable under Articles 222 and 223 of the Penal Code, the Law of Public Order and the Code of Military Justice. Members of 'illicit associations' are subject to up to 20 years' imprisonment, and participants in unauthorised meetings or demonstrations may be sanctioned under Article 166 of the Penal Code and Section 2 of the Public Order Law. The Labour Courts (Magistraturas de Trabajo), the judges of which are named by the Minister of Labour, and the Law of Labour Procedure (Ley de Procedimiento Laboral) permit the dismissal of workers with or without compensation - a measure used by employers against those known to have been involved in meetings and strikes. Even when the Court rules that workers have been unjustly dismissed, a provision in the Labour Law (Article 208) allows their employers to decide whether or not to re-admit them (it was the refusal of the SEAT firm to accept the court order to re-admit 14 workers fired in the summer of 1971 that touched off the strike at the factory in September). Workers arrested for political reasons and held in preventative imprisonment are often dismissed from their jobs without compensation because of 'absence' although they are eventually acquitted; others are detained by the police as they leave hearings in labour courts. Political prisoners who have served their sentences frequently face the impossibility of finding employment again.

The Spanish regime has been the object of persistent criticism by the International Labour Organisation, the International Confederation of Free Trade Unions, the World Confederation of Labour and World Federation of Trade Unions because of its trade union legislation. A study group from the I.L.O. permitted to visit Spain in 1969, when the entire country was under a state of exception, made the following recommendations after investigations which were necessarily limited: that the trade unions should be independent from associations of employers; that all trade union officials should be freely elected; that elected officers should have authority over financial and administrative affairs; that any relations the trade union movement may have with a political movement should be freely determined by its membership and that trade union legislation should guarantee freedom of expression and assembly.

The revised Trade Union Law (Ley Sindical) of February 1971 was designed in part to answer these recommendations and included provisions allowing workers to meet together to discuss union affairs on their own initiative, when previously this could only be done at the instigation of an official. The Law's enacting legislation, however, revealed how narrow this apparent freedom of assembly is. Such meetings may be held on the condition that all persons wishing to attend submit their names in advance, and only those who have done so may participate. A representative from the Sindicatos must be present at the meeting, and the discussion may not encroach upon 'the lawful powers of administrative bodies'. Nor were the other fundamental characteristics of the official trade union structure changed by the new Law: the president of the Sindicatos is still appointed by the Head of State and is a minister of the Government. He presides over the Executive Committee and the Trade Union Congress; he ensures that the central organisation and the trade unions composing it act in accordance with the legislation and basic principles underlying the official Trade Union organisation; he appoints to and dismisses from the posts that are not filled by election - in other words, all those officials invested with real authority; he proposes trade union regulations to the Government;... he suspends trade unions, associations and any other trade union bodies which carry on activities contrary to this Law or to the Fundamental Principles of the National Movement (Article 45); he may suspend the implementation of acts and decisions taken by the trade union organs and bodies (Article 46);...he approves the general regulations governing the administration of trade union property, assets and resources (Article 61); he nominates the presidents of the national trade unions from among the people elected by a three-quarters majority of the General Council of Trade Unions, but if that majority is not reached, the Minister nominates the person he considers suitable (Article 29). In conformity with the same Article, he can decide to end the mandate of the presidents of the national trade unions, and any people who have been declared incompatible with the Fundamental Principles of the Movement cannot become presidents of the national trade unions.' (Joint Statement on the Trade Union Law and the Trade Union Situation in Spain by the International Confederation of Free Trade Unions and the World Confederation of Labour, 18 March, 1971).

The Government has shown its determination to repress the clandestine workers' organisations by raising the statutory penalties applicable to their members; notably with the amendment of the Public Order Law in 1971, which quadrupled maximum penalties - levied by administrative, not judicial, authorities - for the holding of illegal union meetings and the organisation of demonstrations and protests against the dismissal of union activists. Furthermore, a confidential communique issued by the Ministry of Labour in November 1971, acknowledging the threat which the clandestine organisations represented, warned employers to single out and remove potential 'agitators', instructed civil governors to call in the armed police as soon as a labour dispute arose and advised added restrictions on press coverage of industrial unrest. But greater repression seems only to have served to unite and strengthen the Spanish working class.

## VII

### POLITICAL OPPOSITION TO THE REGIME

At the end of the Civil War, General Franco presented himself as the supreme National Leader whose purpose it was to unite all of Spain in the patriotic undertaking of rebuilding a great nation. To this end, the different political forces which had joined together in defeating the Republic were incorporated into the National Movement; workers and employers were organised in the National Confederation of Trade Unions; and all other political parties and trade union organisations were banned by law. In order to prevent 'discord and dissension', several parties were provided for criticism of the regime and the 'Principles of the National Movement' and tight controls were imposed on the press. After more than thirty years of dictatorship, however, the picture is one of divisions within the ruling establishment and increasingly strong opposition from the clandestine trade unions and parties, at the universities and in the Basque Country.

#### 1. Divisions within the Establishment

The once impregnable alliance of Army, Church and Falange around General Franco has been weakened by a series of splits which reach deep into each of these pillars of the regime (for recent developments within the Church, see Section V). The old-guard generals who remain from the time of the Civil War, and the extreme right-wing of the Falange, tenaciously resist the ebbing away of their power and their replacement in top official positions by the Opus Dei technocrats. They made an unsuccessful attempt to stage a come-back at the time of the 1969 RATESA financial scandal (involving the misuse of \$150 millions of government export credits by one of the country's biggest textile machinery firms), in which a number of newly appointed Opus Dei ministers were implicated; and they have stood firmly against the 'liberalising' tendencies since Spain began to look towards Europe. At the same time, the Falange has developed its own 'progressive faction', which purports to defend small and medium-sized businessmen against the monopolistic policies of the Government and favours a relaxation of the proscriptions on political parties - more than anything else, to free the Falange from its absorption in the National Movement.

The extent of the far-right's disaffection was not fully revealed until the Burgos Court Martial in December 1970, when extremist pressure for the execution of six Basque militants was overruled by the Government after a wave of international protest against the death penalties pronounced. Younger officers, particularly since Burgos, resent the close identification of the military with the politics of the regime, and, above all, the Army's involvement in political trials. Influenced by the position of the military in other Western European countries, they see their role as being much more professional.

Although effectively relegated to the political background, the old-guard continues to be a force which Franco must and does take into account. They were able, for example, to defeat twice the Government's attempts to introduce the recognition of the right to conscientious objection through the Cortes. Small in numbers, this sector is fiercely nationalistic and opposes association with Europe because of the dangers of 'contamination' from democratic traditions. Its most outspoken members are, at least covertly, linked with the extremist action group, the Guerrillas of Christ the King (Guerrilleros del Cristo Rey), which with virtual impunity devotes its energies to destroying bookshops that display moderately progressive literature in their show-windows and, in November 1971, art galleries where the works of Picasso were on exhibition.

Between the establishment and the clandestine opposition lie the moderates, among them former ministers of the regime and even veterans of Franco's Civil War army who sooner or later defected from the ranks and joined what might be called a 'semi-tolerated' opposition. They are mainly intellectuals and professionals, Christian Democrats and monarchists, whose criticism of the Government is channelled through the few newspapers and journals which, because of their prestige, are sometimes allowed to voice a guardedly independent opinion. Their margin of freedom is very limited, however, and when they are too outspoken or threaten to project their criticism beyond Spain's borders, sanctions are quick to follow. Such is the case with the lawyer Joaquin Ruiz-Jiminez, former Minister of Education, and the Count of Motrico, once Spanish Ambassador in Paris, who signed a letter of protest against American military support to the regime at the time of the official visit of Secretary of State Rogers to Madrid in July 1970. Heavy fines were levied on them, but orders demanding payment were not issued until April 1972, as a tacit warning against their trying to arrange a meeting with German Foreign Minister Sheel, due to travel to Madrid shortly afterwards. Another example is the respected daily Madrid, shut down by the Ministry of Information and Tourism, allegedly because of financial irregularities, in November 1971; its owner, Galvo Serrer, had sent an article to Le Monde denouncing the Government's attempts to take over the newspaper. The article was published just after Serrer left Spain for exile in Paris, and he was later indicted in absentia by the Public Order Court, accused of having endangered the security of the State from abroad - a crime which carries a maximum punishment of twelve years' imprisonment.

#### The Carlists

The dissident Bourbon-Parma branch of the Spanish monarchy and its followers fought on the side of the Nationalists during the Civil War and were later integrated into the National Movement. Franco was, however, careful never to allow Carlism as such to become a threat to the regime and decisively frustrated its political aspirations when in 1969 he chose as his successor Prince Juan Carlos, grandson of Alfonso XIII, instead of Prince Carlos Hugo de Bourbon Parma, the Carlist claimant. Prince Carlos Hugo had, in fact, been expelled from Spain in 1968, together with his father and sisters, but the Carlists continue to have relative strength in Navarra and Aragon. They stage an annual rally every May on the mountain of Montejurra, near Estalla, the traditional capital of the Carlist kings, although official efforts are made to keep members of the exiled family from crossing the French border for the celebration.

Carlist antagonism to the Government has grown more outspoken since 1969, and the movement - in particular, the younger generation - aligns itself to an increasing extent with the democratic opposition. Demands were made at the 1972 rally for the formation of political parties, trade union freedom, regional autonomy and the creation of a leftist 'social Monarchy' with Carlos Hugo on the throne. A large group of demonstrators, ignoring police orders to disperse after the speeches, ran through the city shouting: "Franco traitor!" and "Free trade unions!" - but the Civil Guard did not intervene.

#### 2. The Clandestine Opposition

The Communist Party of Spain (Partido Comunista de Espana), like the other defenders of the Republic, was forced underground after the Civil War and many of its leaders, those who escaped imprisonment or execution, went into exile - a considerable number to Russia. Some returned clandestinely after a time and began to rebuild party cells within Spain. In 1948, the PCE renounced the use of violence and from then on

focussed its efforts on the working classes; but it lacked a strong trade union organisation until the development of the Workers' Commissions (see Section VI - Trade Unions). After 1965, the top levels of the Comisiones leadership came under Communist control, which in many parts of the country resulted in the withdrawal of the Catholic workers' organisations that had been instrumental in their formation. Other workers, who had joined the Comisiones at an earlier stage when they were the best organised, politically independent clandestine union, also withdrew. While it is true today that many of the rank and file members of the Comisiones do not belong to the Communist Party - nor indeed to any of the opposition parties - and that there is co-operation between Comisiones and other workers' organisations on concrete actions, the PCE continues to exercise the dominant influence.

Long a steady follower of the Moscow line, the Communist Party of Spain split into two bitterly opposed factions over the 1968 Soviet invasion of Czechoslovakia. Secretary General Santiago Carrillo (now living in Switzerland) immediately condemned the invasion, although he was forced to make a conciliatory declaration when threatened with the loss of Russia's economic support. Civil War veteran General Enrique Lister defended the invasion and severely attacked the anti-Soviet stand, for which he was expelled from the PCE in 1970. Russia itself has not openly broken with Carrillo, but supports and encourages the Lister group; Carrillo, for his part, pursues a policy of independence from the Kremlin and has recently made overtures to Peking in an effort to normalise relations with the Chinese. Both the Lister and the Carrillo factions publish their own versions of the party organ, Mundo Obrero; the Lister edition with the title printed in red, Carrillo's in black.

There have been other splits - notably the formation of the pro-Chinese Partido Comunista Marxista Leninista in 1965 - but these have occurred largely at a local level and in the universities. Most are numerically small within the forces of the opposition. In 1971, for example, four different communist groups operated in Barcelona alone, apart from the Catalan affiliate to the PCE, the PSUC (Partido Socialista Unificado de Catalunya - which takes its name from the attempt to unite the Communist and the Socialist Parties in Catalunya during the Civil War).

Since 1970 and the formulation of the Pact of Liberty (Pacto de la Libertad), the Communist Party has adopted a policy of solidarity with all opposition groups. This was 'baptised' in November 1971 at an unprecedented assembly of the democratic forces of Catalunya, held in Barcelona and attended by 300 representatives from more than 20 different opposition parties, workers' organisations, Catholic and separatist groups, students, intellectuals, Carlists and monarchists. As Santiago Carrillo said in an interview for the French socialist weekly L'Unité in the spring of 1972, "Members of the Catalan upper middle class have signed (the 'pact of the opposition' formulated at the assembly of Catalunya), and have accepted the principle of the re-establishment of democratic liberties. That is what matters to us today. We are even prepared to co-operate with certain monarchists, if they will accept this principle."

The Socialist Party (Partido Socialista Obrero Español), founded in Madrid in 1879 by Pablo Iglesias and formally constituted on a national scale in 1888, grew to include some two million members by the outbreak of the Civil War. The Socialist Movement was then made up of three different tendencies, a right wing under Julian Besteiro, a centre headed by Indalecio Prieto, and a left wing under Largo Caballero, leader of the U.G.T. In the years leading up to the Civil War, a much more radical tendency developed, first among the Socialist Youth (Juventudes Socialistas) and spreading later to sectors of the working class organised by the U.G.T. Despite opposition from the party left, the Socialists

joined the Popular Front in February 1936, and Caballero presided over the Republican war cabinet formed the following September, although he resigned because of serious differences with his Communist ministers in May 1937.

After the Civil War, Socialists who were able to cross the border into France set up a P.S.O.E. Secretariat in Toulouse, and for many years the party relations with the outside world were conducted from there. Nevertheless, the section of the P.S.O.E. which remained within Spain began to recover its pre-war strength and recruit new members, especially in regions such as Asturias, where it had traditionally had great influence among the working class. Its steadily expanding youth wing (the National Federation of Socialist Youth, with branches in most parts of the country) has contributed to the rejuvenation of the party leadership; and the P.S.O.E. works closely together with the U.G.T. and the Young Socialists. The XII Party Congress in August 1972 voted to eliminate the office of Secretary General, held since 1948 by Roberto Llopis, and elected an Executive Committee, the majority of whom must represent sections within Spain.

The Young Socialists in particular are active in the formation and growth of District Committees (Comites de Barrio), which serve as a support and complement to the Factory Committees set up by the U.G.T. Organised in working class districts, the Comites de Barrio seek to involve all members of the community - housewives, workers, students, the aged - in discussions of problems which most immediately affect them: housing, sanitation, schools, recreational facilities, medical care. Discussions lead to campaigns, such as those against the rise in the cost of living and the new Law of Education (see below - Students) carried out through leaflet distribution and demonstrations at the beginning of 1972. And campaigns, in turn, act as 'action schools' in which participants come to realise their total lack of representation at even the lowest levels of government (provincial governors and mayors continue to be appointed from above) as well as the severe restrictions on legitimate protest.

Antagonism between the Socialist and Communist Parties has not abated since the Civil War, and fundamental differences reach far beyond their strategies vis-a-vis the Spanish situation. Here, the P.S.O.E. strongly opposes the PCE policy of allying with all anti-Franco forces, be they Christian Democrats, Carlists, monarchists or separatists, and links the struggle against the dictatorship with the broader struggle against capitalism.

The Anarchists and the Anarchosyndicalist tradition has long been deeply rooted in sectors of the Spanish working class, particularly among the peasants of the south and the workers of Barcelona (most of them migrants from Andalucia). Severely persecuted under the Republic, and by the Communists during the Civil War, the FAI (Federacion Anarquista Iberica - Iberian Anarchist Federation) and its trade union, the CNT (Confederacion Nacional de Trabajo), were virtually dismembered in the years of fierce repression after the Nationalist victory. With all of its surviving leaders in prison or in exile, small groups of guerrillas continued to carry on the struggle against the regime in the mountainous regions - at first, in the hope that once the Allies had liberated France, they would cross the Spanish border and rid Spain of Franco. Fighting alone, the guerrillas were eventually extinguished, and anarchists who managed to escape from prison or who re-entered the country clandestinely were arrested and either tried or shot.

The C.N.T. still functions, however, principally in the north in co-operation with the other workers' groups, and the libertarian youth wing does have an organisation at a local level. Its members devote their efforts largely to the production of clandestine literature, although

isolated extremists - usually operating on their own - are occasionally linked to attempts to destroy government property. The February 1972 trial by court martial of the libertarian Julio Millan Hernandez, accused of having planted bombs in an Iberia plane and in the State Accounts Office in 1962, generated considerable international anarchist solidarity - but more important was the reaction against the judicial proceedings themselves and the virtually non-existent evidence on the basis of which Millan was sentenced to 23 years' imprisonment.

#### Basque Nationalists

'Euzkadi' or the Basque 'national homeland' includes four provinces in northern Spain (Guipuzcoa, Vizcaya, Navarra and Alava) and three provinces in southern France. Historically the Spanish Basque Country - with a population of approximately 2,100,000 - has always been a single cultural unit. The region enjoyed certain local rights under the Monarchy, and in October 1936 the Republic granted autonomy to the Basque government. Because of their support for the Republic during the Civil War, the Basques received particularly severe treatment after the Nationalist victory. Many of their centuries-old rights were denied, their unique language and distinct ethnic customs were vigorously suppressed, and a strong central government policy was enforced from Madrid.

Political struggles against the Government have, in the Basque Provinces, been heavily influenced by Basque nationalism, although the movement for separation from Castillian Spain is much more deeply rooted in 'the region's socially conservative and intensely Catholic peasantry', than among the Basque workers and its leaders, 'drawn from the Basque lower-middle and middle classes'. (Kenneth Medhurst, M.A. G., The Basques, pp. 4-5). This is true, in any event, of the Basque Nationalist Party (Partido Nacional Vasco), which was founded in 1894 and represented most of the nationalist opposition until well after the Civil War. The much-publicised E.T.A. (Euzkadi Ta Azkatasuna, 'Basque Homeland and Freedom') was not organised until 1959, by a small group of young radicals who felt that militant action was the only effective means of winning their cause. Since then, E.T.A.'s violent activities - such as bank robberies, bombing of public buildings and the kidnapping of a Basque industrialist in January 1972 - have brought the full force of the regime's repressive apparatus to bear upon the Basque Country. In 1968, the assassination of the police chief of San Sebastian, with a reputation for torturing captured E.T.A. suspects, led to hundreds of arrests, and the court martial of sixteen alleged Basque terrorists, six of whom received death sentences, later commuted by General Franco.

E.T.A. entered into a period of crisis after the Burgos Trial, which resulted in the movement's split into two different factions: the non-Marxists, who continue to support militant guerrilla-type tactics, and the Marxists, who seem to have given up the strategy of violence in favour of building a mass movement incorporating the Basque working classes, and collaborating with the Socialist and Communist trade union organisations already in existence. It appears that the second tendency is the stronger at the present, although the official press gives overriding attention to E.T.A.'s terrorist activities and each new outbreak of violence in the Basque Country, however isolated, is followed immediately by reinforcements of armed police sent from Madrid.

Furthermore, most E.T.A. leaders are now in prisons all over the country serving extremely long sentences and, according to the reports available to Amnesty, subjected to worse conditions than other political prisoners. On the other hand, there are many Basques who, without belonging to E.T.A., sympathise with the nationalist cause or simply oppose the Government's methods of repression (priests who give assistance to prisoners and their families, for example, and teachers who try to keep

alive the Basque language and culture). Anyone suspected of having family or other links with E.T.A., anyone found with nationalist propaganda or involved in its distribution, is liable to arrest. Those who have not participated in acts of violence, however, are usually charged with illegal propaganda or illicit association and tried in the Public Order Court, while E.T.A. militants are taken before military tribunals (see Laws for the Suppression of the Opposition, below).

A large number of Basques have gone into exile in France, and the headquarters of the Basque Nationalist Party are located in Bayonne. The French Government has accepted exiles from Spain since the end of the Civil War, but in recent years has become increasingly reluctant to allow Basque activists complete freedom of movement, particularly in the regions closest to Spain. Some exiles have been forced to move away from the French Basque provinces and there is evidence of 'cooperation' between the French and Spanish police in the harassment of Spaniards who have managed to escape across the Spanish border.

### Students

Organised student opposition to the regime did not coalesce until the late 1950's and took another five years to emerge on a national scale. In 1962, under the leadership of a relatively small number of students, mass protest against the State-imposed student union (S.E.U. - Sindicato Espanol Universitario) were held in Madrid, Barcelona and Bilbao. Although the movement for a democratisation of S.E.U. met with harsh repression from the police, it forced the Government to loosen its hold on the union by conceding free elections for the lowest level of S.E.U. representation. This very limited reform enabled the students who belonged to clandestine political parties to encourage the involvement of the student body at large in political activities within the universities and to recruit new members into these parties. S.E.U. representatives elected by the students also managed to use their official positions as platforms from which to mobilise opposition to the union hierarchy, which was not elected, and to build up illegal all-university organisations, the Juntas de Delegados. The Juntas at each university were responsible for convoking 'free assemblies' of all the students, which elected their own leaders who then co-ordinated student action through clandestine meetings with leaders from other universities.

Faced with the prospect of losing complete control over the student opposition, the Government disbanded the S.E.U. in 1965 and replaced it with the Asociaciones Profesionales de Estudiantes, which were democratic in structure but lacked the functions allowed to S.E.U., and, furthermore, effectively undermined the semi-legal activities of the S.E.U. representatives. While opposition students at some universities accepted the A.P.E. and actually managed to take over their structures, others boycotted the A.P.E. elections and continued their work within the wholly clandestine unions which existed at national and local levels.

In spite of the fact that the student movement as a whole is divided by rivalries among the different political factions (most of the clandestine parties have student branches, and some of the smaller ones are almost exclusively centred in the universities), student opposition to the regime has increased in recent years, supported by a considerable number of professors. As a result, Government retaliation has become even more severe. University unrest in the opening months of the academic year 1968-69 was a major reason for the declaration of a state of emergency in January 1969, which lasted for two months. There was, until recently, a special headquarters for the 'forces of public order' in every faculty, and police informers monitor most classes and lectures; all unauthorised student meetings are broken up immediately - often with violence.

Students today are not only demanding academic freedom and an independent union but also directing their protest at issues that reach beyond the university as such. The strike at the Faculty of Medicine Madrid, which began in November 1971 and spread quickly to universities throughout the country, is an example. The cause of the conflict was the new Law of Education (approved by the Cortes in 1970 but only recently put into effect), which, among other things, provides that medical students must spend an extra seventh year in unpaid internship at local hospitals. By examination time in early summer 1972, the Madrid Medical Faculty had been closed for six months, numerous others for shorter periods of time, and scores of students had been arrested. In protest against these detentions and the virtual occupation of the University by the police, student and professor alike boycotted the scheduled exams - despite police efforts to force them into the classroom at gunpoint. The authorities' inability to deal with the problem brought the 'resignation' of the sub-secretary and four other top officials of the Ministry of Education, who were replaced by men more disposed to taking a 'hard-line'. Finally, when most Spaniards had left the capital for their summer holidays at the end of July, the Ministry issued a Decree which determined that in future the appointment and dismissal of university rectors would be the responsibility of the Council of Ministers; that the entrance to university would depend on a student's police record of good conduct; that students dismissed from one university for 'disciplinary' reasons would be prohibited from matriculating at any other; and that university professors and administrators were to be responsible for maintaining law and order on the campus. In addition, the statutes of the two Madrid universities were suspended for one year, a situation little short of martial law. The measures led to the resignation of the rectors and deans of five universities, because they felt, in the words of those from Madrid, that they could not 'remain teachers and the guardians of a shadow of academic freedom and act as policemen for the regime.' Subsequently, some 250 professors were dismissed from state institutes and universities as a result of another new regulation requiring all those without long-term contracts to present a 'certificate of good conduct' from the police.

What was notable about the development of this particular conflict was its professional motivation. The resolutions and petitions elaborated during illegal meetings called for an end to the excessive selectivity and control over the courses of study which result in the elimination of all but a tiny percentage of the students who begin the medical career; and for a profound reform of the administration of medicine in general in Spain, a country which at present has only half the number of doctors it needs, while 75% of the medical graduates are forced to seek jobs abroad because hospitals and clinics are not equipped to take them on.

The Law of Education has, in fact, served as a catalyst to unite students, their professional counterparts, the clandestine workers' movements, and parents over grievances which directly or indirectly derive from the structure and policies of the regime. The medical students' demands were backed by 500 doctors in the clinical hospital of Madrid. Teachers declared a one-day national strike in March 1972 to support student teacher protests that the new Law had done nothing about low wages, large classes, insufficient facilities, inadequate training and an educational system which discriminates against economically deprived families. Parents, students and workers all over the country participated in campaigns against the failure of the law to provide more nursery and primary schools (according to an April 1972 article in Cuadernos para el Dialogo, more than one million children in Spain today do not go to school); and to adjust technical schools and adult education to the exigencies of those who must work and study at the same time, while it makes access to university even more difficult for children from the

underprivileged state schools.

The significance of this social and professional commitment on the part of Spain's university students was indicated by Salustiana del Campo, head of the Sociology Department at the University of Madrid, in the conservative Catholic daily Yo in January 1972: 'This reform (the Law of Education) implies a certain concept of our future society which runs the risk of favouring an elite and, therefore, of being undemocratic... The student question remains without solution. It would be extremely serious if the students, in order to do away with a traditional university which is the pillar of an absolute and unjust social system, try to turn that University into a revolutionary barricade.' (Le Monde 19.1.72).

Most universities already do, in fact, closely resemble revolutionary barricades, at least as far as the regime is concerned. After the ostentatious withdrawal of the armed police from the Madrid University City in October 1972, the heavy-handed tactics of the academic authorities and the pent-up frustrations produced by the anomalies of maladministration combined to increase student militancy and, inevitably, to bring the police back on to the campus with renewed brutality. Many of the faculties at the major centres continued to be closed more often than open; and Minister of the Interior Caricano Gorri's speech to the Cortes at the end of November promised an even tougher approach to 'university subversion.'

Unsuccessful as it has proved to be in silencing student protest (and there is little reason to believe that the prospects will improve in future), the Government seems to have been still less capable of preventing the tide from eventually over-flowing into the professional sectors -- where unrest is much more difficult to attribute to outside agitators. The monopoly of the upper classes on university education, together with the traditional conservatism or acquiescence of the professionals, guaranteed in the past that student activists left their militancy behind after graduation. For long years following the Civil War, the regime met virtually no resistance from lawyers, doctors, teachers and white-collar workers as a whole. Recent developments have dramatically shown that this is no longer the case: in part, a delayed result of the greater accessibility of higher education to the middle classes; in part due to the diminishing possibilities of university graduates to find work in the fields for which they were trained or jobs that pay enough to support them and their families; in part, the consequence of the inept policies, the shortsighted measures and the repressive reactions of the Government.

The energetic protests touched off by the Law of Education and by the dismissals of 'undesirable' professors typify the growing professional discontent; as does the movement among non-tenure (no-numerario) and secondary school teachers, who organised a series of strikes early in 1973 to back demands for job security and regular pay - many teach for several months at the beginning of each year before their annual contracts are formalised, and often receive their meagre wages (some of them frozen since 1965) after long delays.

Doctors, psychiatrists and nurses are also resorting to militant action to fight against poor and unhygienic working conditions, hopelessly inadequate facilities, low pay and lack of even official trade union representation. The conflicts, stoppages, occupations and dismissals which have taken place over the past few years - the psychiatric clinic of the Francisco Franco General Hospital in Madrid in September 1971; the Oviedo Mental Hospital in January 1972; the Barcelona Social Security Hospital in December 1972 - have thrust the issues of health and medical care into the realm of law and order (police entered a ward of the Barcelona

hospital at one point, clubbing nurses and personnel who had refused to end a sit-in). The regime's response, only different in degree from that elicited by the students and the working class, provides yet another measure of the increasingly narrow - and precarious - consensus on which it stands. Within such a context, professional grievances necessarily develop political implications, and those implications, for the Government, are dangerous. The II Congress of Young Doctors held in Valencia in June 1972 is a case in point. Resolutions passed included a denunciation of the utilisation of Social Security funds for totally unrelated purposes; a demand for a higher Government share in the contributions, only possible through a democratic fiscal reform; an increase in Social Security medical staff to meet the needs of the country; the participation in and control of the Social Security system by its beneficiaries and all personnel; an end to the repression exercised in many Social Security hospitals, in particular the prohibition on staff assemblies and dismissals for other than professional reasons; the establishment without delay of a truly national health service. Demands regarding psychiatric care followed similar lines: the Young Doctors called for the immediate integration of mental hospitals into a national Social Security system, controlled by the whole country through representative bodies; they insisted that the holding of posts in public hospitals be made incompatible with the maintaining of private practice; they urged the implantation of a full working day in every psychiatric institution, with the full staff complement paid a living wage; and they declared the democratisation of hospital administration a therapeutic and social necessity. Clearly, the implementation of resolutions such as these would not only 'revolutionise' Spanish medicine, but would also require fundamental changes in the social and political structures which support the Franco regime.

Trouble has been brewing for some years within the provincial bar associations. Spanish lawyers - both individually and collectively - have demonstrated great courage in pressing for reforms in the judiciary system as well as in defending political prisoners. A number of prominent defence lawyers have been suspended from practice or indicted for trial themselves on charges of contempt of the Public Order Court because they questioned its jurisdiction in particular cases; or because they introduced issues considered by the judge to be irrelevant - such as the use of torture on their clients by the police. At its March 1972 meeting, the Madrid College of Lawyers approved a programme of basic demands, many of which were adopted later by colleges in other parts of the country: defence lawyers should be given access to prisoners at any time after their arrest or trial; the College of Lawyers should aid any of its members who are arrested or sanctioned by the authorities; top officials of the College should no longer hold public or political office, in order to preserve its independence; and a commission would be formed within the College to guard against 'limitations or threats to the liberty to defence and the independence of the practice of the legal profession' and to elaborate a series of court reforms to protect lawyers' freedoms.

It was not until the time of elections to the governing council of the Madrid College (December 1972), that the Government brought itself in direct confrontation with the whole of the Spanish Bar. The Minister of Justice, resorting to a 1950 ministerial order which allows him to approve candidates in College elections, banned five of the lawyers from standing on the grounds that it was the Government's duty to see that the professional associations do not deviate from their specific functions. The immediate result was the withdrawal of the remaining 54 candidates, followed by strong criticism from the General Council of the Spanish Bar for this blatant violation of its autonomy. One after another, the provincial colleges have expressed their solidarity with Madrid, some of them postponing their own elections and demanding the derogation of the

ministerial veto power. Rather than heading off what it saw as a political move to 'take-over' the Madrid College on the part of several of the progressive candidates, the regime managed to turn the independence of the professional association into a political issue - and among the most vigorous protests was the voice of one of the five banned, Jose Maria Gil Robles, leader of the right wing Catholic CEDA during the Republic.

## VIII

### CONSCIENTIOUS OBJECTION

Military service is compulsory in Spain, and no provisions are made for conscientious objection. Men who refuse to take up arms on religious grounds are charged and sentenced for military disobedience. At the end of each sentence, they are called up once more for military service, refuse again, and the sentences become progressively longer until the prisoner is no longer eligible for active service at 30 (although several have been held beyond that age). There are now more than 250 Jehovah's Witnesses in prison, in addition to five pacifist conscientious objectors.

The Spanish Government has twice submitted a draft-law on conscientious objection to the Cortes (Parliament). The first draft - which contained provisions for an undefined alternative service for conscientious objectors and for the release of men who had already served three years' imprisonment - was discussed in a Committee of the Cortes (the Comision de Defensa Nacional) on 9.7.70, but by a majority vote of 21 to 9 it was returned to the Government for re-drafting.

A second draft was submitted to the Comision de Defensa Nacional in the spring of 1971. Its basic provisions (a "special" service for those who refuse to bear arms on religious grounds, to be given for a period of not less than double the eighteen months of regular military service, imprisonment for not more than three years for those who refuse to accept the "special" service, and release for all who had served more than three years in prison) were essentially the same as before, but the procedural mechanics left less authority in the hands of the Government itself - an effort to overcome the major objection of the Comision to the first draft.

In the course of the Comision de Defensa Nacional debate, however, the original text was made considerably more harsh with respect to the conditions and restrictions imposed on conscientious objectors. Among other things, the changes provided that to be included under the jurisdiction of the law, conscientious objectors would have to have been members of a religious association (registered with the Ministry of Justice) for at least one year and would have to present a document signed by their superiors stating that members of the association were prohibited from bearing arms. They would also have to go through the rite of kissing the flag (an act which is not even required of army recruits) and would lose all rights to teach publicly or privately, until past the reserve age of 38.

During the heated debate, General Manuel Diez-Alegria, Chairman of the Joint Chiefs of Staff and appointed to the Comision by the Government, expressed his opposition to a number of the amendments put forward by certain other members. "The Government proposed a special regime for conscientious objectors" he stated "and we, after two days of debate and arguments, have - instead of a special regime - elaborated an ordinary military service with some peculiarities. We have made a law so strict that it is unacceptable. We are left only with the elimination of that inadmissible anomaly of the recurring sentences. This is no small achievement, but it is not worth passing a law just for that." He affirmed that he would not vote for the draft as revised by the Comision. Shortly thereafter, the Government announced that there would be no full Cortes vote on the draft, and retired it.

The military service law stipulates that the Government can determine by decree matters which affect the national interest. There was speculation that General Franco himself might enact the provisions of the original draft using that recourse. No indication of this, however,

has been given since the withdrawal of the draft-law. It appears, moreover, that the Government has adopted a "wait-and-see" attitude vis-a-vis the new Cortes, reconstituted in September/October 1971. According to high official sources, the problem continues to be general public opinion, still "unsympathetic" to the position of conscientious objectors. On the other hand, the last debate in the Comision de Defensa Nacional, in which a number of older, conservative generals participated, revealed that much of the instrumental resistance to recognition of the right of conscientious objection comes from the military. General Diez-Alegria is a notable exception.

## CIVIL RIGHTS

The Fuero de los Espanoles (Charter of the Spanish People) approved by the Cortes in 1945, sets out the Constitutional rights and duties of Spanish citizens and includes (subject to qualification) such rights as freedom of expression, assembly, residence and immunity from arbitrary detention. However, the conditions under which these rights may be exercised are closely controlled, and Article 35 of the Fuero provides that the Government may suspend any Article at will. In 1962, for example, Article 14, which guarantees freedom of residence, was suspended by Decree to enforce the exile to the Canary Islands of 80 Spaniards who had attended a Congress of the European Movement in Munich and had called for democratic reforms.

Freedom of Expression is dealt with in Article 12 of the Fuero, which provides that 'all Spaniards may express their ideas freely so long as they do not attack the fundamental principles of the State.'

The Press Law of 1938, passed at the height of the Civil War, remained in force until March 1966. Then, the introduction of a new Press Law abolishing censorship prior to publication in favour of 'voluntary consultation' between publishers and the authorities was cautiously welcomed at first as a liberal reform. It is conditioned, however, by 'respect for truth and morality; observance of the Law of Principles of the National Movement and other Fundamental Laws; the requirements of national defence, the security of the State, the maintenance of internal public order and external peace; the respect due to institutions and persons in criticism of political and administrative action; the independence of the Courts and the safeguarding of the private sphere and personal and family honour.'

A number of radical Catholic publications were the first victims of the law, which obliges all publishers to appoint a Director who will be held responsible at law for any offending material published. In April 1967 even the limited increase in freedom provided by the 1966 Press Law was virtually nullified by an amendment to the Criminal Code designed to eliminate all criticism of the Government. This measure provided that sentences of between six and twelve years might be imposed for the public expression of 'affronts to the Spanish Nation, the State, or its political form'; fines and short term imprisonment can be imposed for criticism of the National Movement; and 'failure to show respect for institutions and individuals' is punishable by detention and fines. Criticism of the regime, and the publication of accounts of labour disputes or divisions within the Government have led to the suspension or the continued imposition of fines on a number of newspapers and journals by order of the Ministry of Information (and Tourism). One of the most notable of these was the respected daily Madrid, which was closed down in November 1971 after a period of suspension and several heavy fines. The circulation and sale of foreign periodicals remains subject to the authorisation of the Ministry of Information, and leading newspapers such as Le Monde and The Observer are frequently banned. According to an International Press Institute report of August 1972, the Government had, over the past two years, fined a total of 133 Spanish newspapers and magazines for violations of the press law; 87 cases against the news media had either been dropped or were still pending, editions of 12 magazines had been seized and the courts had ordered confiscation of 30 others. Radio and television equally fall under the jurisdiction of the Ministry of Information, and the content of all programmes is strictly controlled.

Freedom of Association 'for lawful purposes' is guaranteed by Article 16 of the Fuero, but the formation of an association is dependent on State

authorisation, political parties are illegal and expressly forbidden by Law VII on the principles of the National Movement, and only the official trade union organisation is permitted. The 1953 Concordat guarantees freedom of association for Catholic organisations constituted for purely religious motives, a condition which the workers' 'brotherhoods' created by the Church - IOAC and JOC - overstepped in 1962 by supporting the strike of the Asturian miners. Their leaders were arrested and fined, and their increasing cooperation with the clandestine workers' organisations since then has virtually eliminated the special status accorded them by the Concordat.

Freedom of Religion was restricted by the Fuero to the practice of the Catholic religion. The small Protestant minority was harassed in the 1950's and the Spanish Evangelical Church was closed in 1961. In 1966, in response to the Vatican Council's 1964 decision in favour of freedom of conscience, freedom of religion was extended to non-Catholics in Spain. On the other hand, Articles 205 to 212 of the Penal Code penalise crimes against the Catholic religion, and Article 209 in particular imposes a sentence of one month to six years for insulting the Catholic Church in writing or speaking. In March 1972, a well-known film director, Manuel Summers, was given one month's imprisonment for a series of drawings he did for a popular weekly magazine, which depicted the National Assembly of Bishops and Priests. Although a representative of the Archbishop of Madrid testified at the trial that the Church found nothing objectionable in the drawings, Summers was found guilty of ridiculing 'that which is religious and spiritual'. Recently changed Article 208 punishes those who 'commit acts of desecration against the religious sentiments recognised by law' - a wording which leaves a great deal of discretion to the courts in deciding what kind of acts profane such religious sentiments and exactly what those sentiments are.

Freedom of Assembly is severely limited. The Law on Public Order, the Penal Code and the Code of Military Justice provide penalties for illegal assemblies. All meetings of over 20 people and demonstrations must be authorised by the Ministry of the Interior, and their organisers must specify the purpose of the meeting, the topics to be discussed and the speakers. Prior authorisation is required for speeches and lectures held under any auspices other than the Church, the university or the National Movement.

The right of habeas corpus is provided by Article 18 of the Fuero, according to which no Spaniard may be arrested except in the cases prescribed by law, and all detainees must be freed or turned over to the judicial authorities within 72 hours of arrest. During a State of Emergency, however, Article 18 is suspended and prisoners may be held by the police until martial law is lifted. (Many people arrested in the 1971 State of Emergency, from January to June, who were actually taken before a court, were given provisional liberty by the judge and then 'retained' by the police). Prisoners have frequently been held in police stations for a period of several weeks before being sent to the judge, although there is a provision for making a complaint against a police officer for illegal arrest and detention (Article 186 of the Penal Code), which in a few cases has resulted in the prompt appearance of the accused in court.

## THE LAW

The Spanish legal apparatus is extremely complex, and opponents of the regime are subject to penalties under any of the three systems of law in force: administrative, criminal and military.

The Law of Public Order (1959, amended 1971) is administered by the Executive. The Council of Ministers, the Minister of the Interior, The Director General of Security, the Civil Governors and Mayors are empowered to fine people charged with breaches of law and order. Such breaches are very widely defined, and include organised strikes, public demonstrations, unauthorised meetings, the production and distribution of literature critical of the regime or the expression of dissenting opinions.

In a study of official records of public order sanctions, lawyer Carlos Garcia Valdes (Cuadernos para el Dialogo May 1972) found that the fines on a number of individuals had been imposed for the following reasons: causing public disorders with shouts or gestures of a subversive political significance; interrupting traffic; reacting violently, producing thereby a large disturbance, when the armed police removed subversive posters which had been put up in the University; having participated in clandestine meetings, where subversive decisions were taken; having presided over an unauthorised meeting; belonging to an illegal committee organised outside the realm of official representation'. The conclusion of the sanctioning authority in all cases was that the person concerned was a 'notorious threat to social peace and order', because of his dangerous agitating behaviour, his record of previous arrest and sanctions for acts against public order, his notoriety as an activist in university and labour circles, his appeal in writing to the Minister of the Army for the inhibition of the military jurisdiction in the Burgos trial, his contacts and relations with well-known elements opposed to the regime, or his death sentence in 1939.

Any person sanctioned under the Public Order Law must either pay the fine in full immediately; appeal within 10 days to the higher administrative authority, having deposited a third of the fine, or face a term of imprisonment without trial. The amendments to the Law introduced in July 1971 - despite resistance from certain procuradores familiares in the Cortes, the General Council of Spanish Lawyers, and others - greatly increased the scale of fines to a maximum of 1,000,000 pesetas, which may be raised again by 50% for persistent offenders. The maximum period of imprisonment in the event of non-payment was increased from 30 to 90 days, violating to an even greater extent Article 18 of the Fuero de los Espanoles, which provides that no person may be detained for more than 72 hours before he is taken before a judge. Worse, the application of the Law often infringes the judicial principle of non bis in idem, since people fined or imprisoned by administrative authorities under its provisions may then be tried by the Public Order Court (Tribunal de Orden Publico) for the same offences.

Since the approval of the new amendments to the Law of Public Order, these sanctions have been applied against workers involved in strikes, students, lawyers and even priests. The Law's implications for the majority of Spaniards are summed up by lawyer Valdes: 'All of us must carry in our pockets 100,000 or 500,000 pesetas in case we become involved in acts against public order, so that by paying the fine immediately we can be released'. (Cuadernos para el Dialogo, May 1972).

Perhaps even more significant were the comments on what the Law on Public Order means for the Spanish judiciary, contained in a document produced by an anonymous group of jurists and circulated clandestinely in Madrid in the spring of 1972: 'This practical power of detention (for non-payment of fines), broadened in the new amendments, is a flagrant

violation of a power which, in principle, can be a prerogative of society, is considered in civilized countries to belong exclusively to judges and the courts. In practice, there is already enough evidence to conclude that these, and not others, are the purposes of the legislator, for extremely high fines have been imposed, sometimes the maximum amount for the first offence, as a means to deprive people of their freedom beyond all judicial control.

The Penal Code is administered by the judiciary and supplemented by decree laws emanating from the Head of State. Its provisions include penalties for illegal associations (Articles 172 to 174: fines and one month to twenty years' imprisonment); 'gross insults to the Spanish nation' (defined as a treasonable offence and carrying terms of imprisonment of up to twelve years: Article 123); strikes (Articles 222 and 223: six months to twelve years' imprisonment); illegal propaganda (Article 251: six months to six years' imprisonment and fines); and unauthorised meetings and demonstrations (Articles 166: six months to six years' imprisonment). Prisoners charged with these offences are tried by the Public Order Court, established in 1963 (before that year, most were tried before military tribunals). The accused has the right to defence counsel of his own choosing and appeal to the Supreme Court (Tribunal Supremo).

Several of the above articles were changed to a significant extent through a reform of the Penal Code in November 1971, a reform which, according to the respected Spanish journal Cuadernos para el Dialogo (December 1971) was made not to do away with certain offences, but rather 'to create new ones or to broaden others which already exist. All of this leads to one basic conclusion: Spanish society has become, after this latest change, even more repressive. And it cannot be said that it has been only slightly so until now.' Among other things, Article 173 is now considerably more ambiguous than before, applying not only to 'groups or associations constituted within or outside the country to attack in any way the unity of the Spanish nation or to promote separatist activities' (former text), but also to 'groups or associations constituted...to attack in any way the unity and independence of the fatherland, the integrity of its territory, national security or the institutional order' (new text). One of the alterations in Article 174 amplifies the offence of aiding with economic contributions the groups or associations mentioned above, and now also sanctions, 'any other kind of aid' - which may include the asylum and protection afforded by members of the clergy. Other reforms provide additional or greater punishments for acts which disturb public order. Article 263 in the section on 'terrorism', for example, now sanctions with six months to six years' imprisonment those who, 'acting in a group and with the objective of threatening public peace, altering order, causing injuries to people, damaging property, obstructing public places or occupying buildings, unless a higher sanction corresponds to the act in another provision of this Code.'

The reforms in the Penal Code not only increase the sanctions imposed for activities, most of which would be legal in countries where the freedoms of expression, association and assembly are recognised, but they will also increase the number of persons brought to trial for engaging in them. A decree establishing a second Public Order Court, in addition to the one set up in 1963, was, in fact, announced in the Official Bulletin of the State at the end of May 1972, made necessary by the 'rise foreseen in the amount of offences' under its jurisdiction.

The Military Courts have jurisdiction in cases involving espionage, military rebellion and insurrection. 'Military rebellion' includes mutiny, strikes, sabotage and 'any similar acts if they are inspired by political motives or seriously disturb law and order'. In addition,

martial law operates during states of exception, which have been declared on four separate occasions since the end of the Civil War. The Decree on Banditry and Terrorism (Ley de Banditaje y Terrorismo) of 1960, under which military courts may impose the death penalty or up to 30 years' imprisonment for a wide range of activities, was restored in 1968 to deal with the resistance in the Basque Country, and re-enacted every year afterwards until 1971, when it was incorporated into the Code of Military Justice. This reform changed almost none of the provisions of the decree law (except to make a few offences even more vague); and while it allows for the transfer to Public Order jurisdiction of crimes which previously were tried only by the military courts, the corresponding sanctions are now a permanent part of Spanish penal legislation.

Prisoners tried by summary military procedure have been permitted their own civilian defence counsels for some time (in the past they were defended by military officers), but appeals to the Supreme Court of Military Justice may only be made on the initiative of the Captain General of the military region in which the court martial is held.

The three juridical systems, therefore, overlap each other to a large and confusing extent. There have been cases where a prisoner has been tried by more than one court for the same offence, and examples where a group of prisoners, involved in the same activities, have been separated into two groups and given very different sentences according to whether they were subject to military or civil jurisdiction. In 1970, a draft Organic Law of Justice, designed to unify the courts and to abolish exceptional jurisdictions, was prepared by the Government for submission to the Cortes, but no further progress has been made, although Spanish jurists and even the Attorney General Herrero Tejedor have openly spoken for the urgent need of reform.

## THE COURTS

Prisoners do not have the right to communicate with their lawyers from the time of their arrest to their first appearance before a judge, and it is during this period (a maximum of 72 hours, according to law) - while they are being held in police stations - that many are made to sign the statement upon which a great deal of the evidence against them is based. Amnesty has in its files a number of reports of trial observers which confirm not only that these confessions constituted the bulk of the prosecution's case but also that prisoners vigorously denied their validity before the judge.

There may be delays of up to a year between indictment and trial, although the majority of prisoners are released on bail (bajo fianza) after several months of preventive detention (which is later discounted from their sentence). Notable exceptions were the cases of Julio Millan Hernandez, who was arrested in 1967, refused bail, and not tried until 1972; and four workers from Santander, arrested in 1968 and held in preventive detention until their trial in 1971.

Trials are public (the public galleries are often, however, filled with plain-clothes policemen), unless the presiding judge orders that they be held in camera for consideration of public order or public morality. The judiciary is professional and appointments are made by the Executive through a system which, in practice, makes maintaining the independence of the courts extremely difficult, if not impossible. The Council of Ministers and the Head of State, for example, have responsibility for naming and dismissing the President of the Supreme Court and its magistrates, as well as the President and magistrates of the Public Order Court. The Minister of Justice is empowered to move magistrates from one division to another of the Supreme Court (it was by virtue of this authority that the presiding magistrate who established the absolute distinction between offences against the Spanish nation and against its governing political system, was transferred from the penal division to the civil). In the anonymous document written in 1972 by a group of jurists (see Law for the Suppression of the Opposition, above), the authors strongly criticised the threats to and restrictions on their independence, which, together with the fact that promotions are not based on seniority but rather on the individual judge's 'record', are built into the appointments system: 'What we have explained indicates that the Government possesses the key to the problem of the appointments of the members of the judicial profession who will decide on the most transcendental and critical issues of our society. No one can deny that control over appointments implies control over decisions.'

The document also protested against the usurpation of the judiciary's powers by the Executive, not only in connection with the Law on Public Order but also with respect to the most recent State of Exception declared at the time of the Burgos Trial in December 1970 to last for six months, when police frequently re-arrested a prisoner to whom an examining magistrate had granted provisional liberty; and the General Pardon decreed by General Franco on 1 October, 1971. The 1971 pardon, unlike those in previous years, included the annulment of trials in progress if the sentences being demanded by the prosecution were less than six months' imprisonment, or fines, a provision which affected in particular the high government officials implicated in the 'MATESA' scandal of 1969. As the magistrates pointed out: 'Articles 29 and 31 of the Organic Law of the State establish the complete independence of the administration of justice, and the principle that the function of judging and executing decisions corresponds exclusively to the courts. But Article 3 of the pardon decree, applying to trials in progress, orders the courts to pronounce their judgement by declaring the accused to whom these considerations apply free of criminal responsibility. The Decree, in fact, constitutes a judicial act which overrides, to the extent that it determines, the

decision of the courts.'

#### Torture

Allegations have long been made in many quarters - including lawyers and the Church - that torture is commonly used in police stations to extract information and obtain confessions. In spite of continued protests and demands both from within Spain and from abroad for an open investigation, the Government maintains that most of the allegations are unfounded and simply propaganda, on the one hand; and on the other, that any prisoner may submit a complaint to a judge about his having been maltreated. Prisoners often fear further intimidation if they attempt to do so, however, and the formal denunciations made by defence lawyers in court are often dismissed for 'lack of evidence' (most prisoners are kept in the police stations long enough after torture to ensure that all telling marks have disappeared, and prison doctors are usually unwilling to sign medical certificates confirming injuries sustained by prisoners before they are given over by the police). Amnesty knows of only three cases where disciplinary action (several days imprisonment) has been taken against police officers accused of inflicting ill-treatment. The documentation available to Amnesty indicates that the practice of torture in Spanish police stations is widespread, regular and virtually unrestricted.

#### Death Penalty

Since the incorporation of the Law of Banditry and Terrorism into the Code of Military Justice in November 1971, the death penalty has been applicable, under Article 294 of the Code, to the crime of 'military rebellion' when it results in the death or injury of people. It had been used infrequently in recent years until the 1970 Burgos trial, when six Basque nationalists were condemned to death for their alleged involvement in the killing of the San Sebastian Chief of Police in 1968. The wave of international and national protests, in addition to pressure from within the Army, caused General Franco to commute the sentences.

## PRISONS AND PRISON CONDITIONS

By a revision of the prison regulations (Reglamento de Servicios) in 1968, Spanish prisons are classified according to grades (grados). Each grade - first through to third - corresponds to a different kind of treatment, a different stage in the prisoner's 'rehabilitation' and, beginning with the first, a successive lessening of restrictions on his movements. First grade prisons are 'closed', second grade, 'semi-open'; and third grade, 'open'. Four prisons in Spain - Segovia (first grade), Soria (first grade), Jaen (second grade) and Palencia (third grade) - have been especially designated for 'offenders by conviction', or political prisoners (and Sanera, for priests). Some political prisoners, however, are held in prisons which have not been so designated, such as Ocaña (for prisoners between 21 and 25 years of age), Teruel (for offenders under 21), Puerto de Santa Maria and Basauri (for untried prisoners), in addition to many of the other provincial prisons. There are also several prison hospitals, and the Geriatric Institute of Algeria (for prisoners over 60 in need of special medical care). While these civil prisons fall under the jurisdiction of the Ministry of Justice, through the General Administration of Penal Institutions (Dirección General de Instituciones Penitenciarias), the military prisons - where the majority of conscientious objectors are held - come under the Ministry of the Army, through the Captains General of the various military regions.

Each civil prison is administered directly by a prison council (Junta de Regimen) headed by the prison director and made up of the subdirector, the administrator, the doctor, the teacher and the prison priests. The Junta is in charge of implementing prison regulations, maintaining prison discipline, and - to a certain extent - determining whether or not the prisoners will receive conditional liberty and remission of sentence through work (see below). Above the Junta in the hierarchy of prison administration is the Comisión de Protección y Tutela Penitenciaria, which, as part of the Patronato de Nuestra Señora de la Merced, looks after the welfare of the prisoners and their families. The Patronato, presided over by the Minister of Justice, also considers prisoners' applications for conditional liberty and supervises the general operation of the system of remission of sentence through work. All of these offices belong to the General Administration of Penal Institutions, the General Director of which is the highest authority responsible for the functioning and inspection of the civil prisons, as well as assignments and transfers of prison personnel and prisoners.

Although the Spanish Government maintains that the standards for prison conditions and treatment of prisoners are high, Amnesty has a considerable amount of documentation which confirms that this is not, in fact, the case. Some improvements have been noted in recent years, but most were made only after vigorous protest action (hunger strikes, for example) on the part of the prisoners themselves, resulting in the replacement of certain directors. It should be said that the treatment of conscientious objectors in military prisons is generally good; and complaints of poor hygiene, sanitation and food, and unduly harsh or arbitrary discipline, from these establishments, are limited. With respect to the civil prisons where political prisoners are held, however, there is ample evidence that at least some of the following apply to virtually all of them:

1. Extremely inadequate medical facilities (obsolete or broken equipment, few supplies) and medical attention (irregular visits by prison doctors, treatment administered by untrained common prisoners acting as 'assistants', no specialist or hospital care for the seriously ill, infirmaries closed in several prisons).

2. Insufficient and unbalanced prison meals (lack of meat, fruit, vegetables; food spoiled or insect-infested).
3. Sub-standard sanitation (few showers, no soap, little hot water and sometimes no water at all for extended periods, primitive toilets).
4. Over-crowded, unheated, badly-ventilated and underlit cells (most are furnished with 40 watt, or less, light bulbs).
5. Excessive restrictions on reading material and opportunities to study (only the most conservative newspapers permitted - and these occasionally censored, prohibition of books sold freely in Spain, no access to library).

Furthermore, the frequency of prison visits is determined by each Junta de Regimen (in Puerto de Santa Maria, for instance, the allowance is three times per month), and they last for 20 to 30 minutes. Prisoners may be visited only by members of their immediate family and, with special authorisation, by people 'of confidence'. Visits take place in a room where prisoners are separated from their relatives by two wire gratings with a small passage in between; conversations are restricted to personal matters and are closely supervised by guards (in some cases as many as five). In most prisons, prisoners are not allowed to embrace or even touch their families, in spite of the fact that many are held in areas far from their homes, so that the majority of wives and mothers can rarely afford the expenses of a long journey.

According to prison regulations, prisoners may correspond with their families (again, at intervals determined by the prison director), but letters are intercepted if they 'infringe the rules of decency or contain expressions of doubtful interpretation...if they suggest or constitute criticism of the integrity of the State or the authorities which represent them, or if they divulge information the general knowledge of which would be prejudicial to the regime or to the order and security of the prison'. In practice, censorship is severe, although the degree varies with each prison director.

Political prisoners are often subjected to disciplinary sanctions - including isolation in 'punishment cells' (celdas de castigo) for up to 100 days, loss of remission of sentence through work and refusal of conditional liberty - if they commit breaches of conduct (faltas, faltas graves, or faltas muy graves). Such sanctions have been imposed for writing letters of protest against prison conditions to higher authorities, for participating in hunger strikes, for attempting to communicate with a friend held in another gallery of the same prison, for disobeying minor regulations, or for making a complaint to the prison director.

Article 98 of the Spanish Penal Code and Chapter VI, Sections 1 - 3 of the Prison Regulations provide that a prisoner may be released on conditional liberty after serving three-quarters of his sentence, if he has a good prison record, has shown by his conduct that he will 'lead an honourable life in freedom', and if he is in a third grade prison (transfer from one grade to another depending on the director's recommendation). Article 100 of the Penal Code and Chapter VII, Sections 1 and 2 of the Prison Regulations provide that all prisoners may earn remission of one day of their sentence for every two days they work in the prison workshops or devote themselves to certain intellectual activities. In practice, political prisoners are often deprived of remission because of having incurred faltas, and are generally excluded from the benefits of conditional liberty.

It is up to the prison director to initiate an application for conditional liberty on behalf of a prisoner, and his report is sent on to the Provincial Committee of Conditional Liberty, to the Conditional Liberty Section of the General Administration of Penal Institutions, to the Patronato, and finally to the Council of Ministers - but it can be rejected at any step along the way, or returned for further consideration. In the case of political prisoners, 'rehabilitation' or providing guarantees of 'leading an honourable life' mean, in effect, renouncing their beliefs and accepting a penal system to which on principle they are opposed, as it applies to them. Nevertheless, a limited number of political prisoners have been granted conditional liberty by the Council of Ministers, and the Ministry of Justice has defended the impartiality of the application of the regulations by pointing to the fact that in 1970, out of 36 prisoners sentenced for threatening the security of the State (the Government does not recognise the term 'political prisoners') whose cases were considered by the Council of Ministers, 24 were granted conditional liberty - as opposed to a lower percentage for common prisoners. These figures, however, do not reveal the number of applications which never reach the highest level of decision-making or the number of prisoners for whom directors refuse to submit recommendations; and they include prisoners given a much shorter period of conditional liberty than that actually due to them.

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