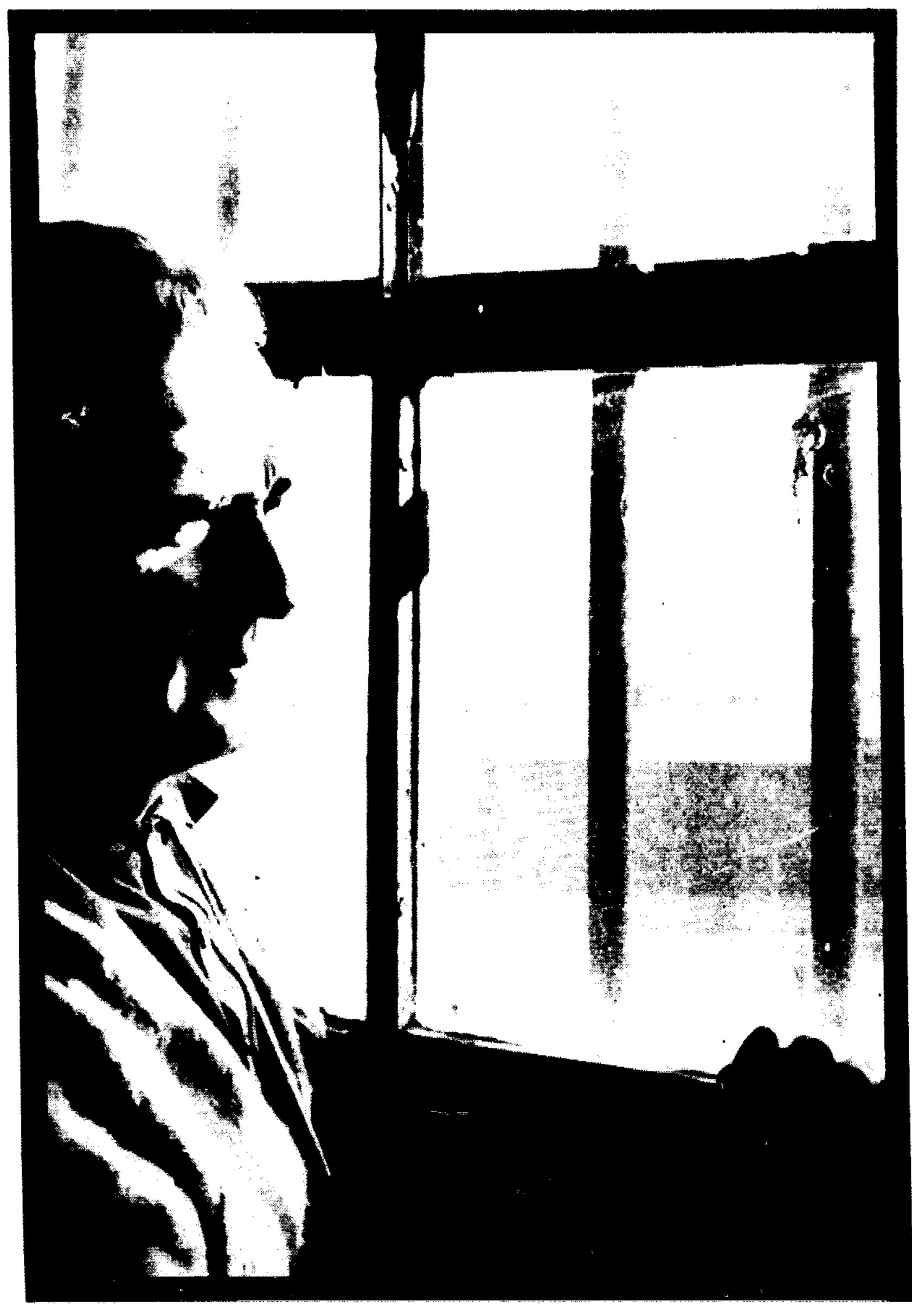
# POLITICAL IMPRISONMENT IN SPAIN



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AMNESTY INTERNATIONAL opposes the use of torture in all cases and without reservation. It is now conducting an international Campaign for the Abolition of Torture.

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Everyone has the right to freedom of thought, conscience and reli-Article 18: gion; this right includes freedom to change his religion or beliefs, and freedom, either alone or in community with others and in public private, to manifest his religion or belief in teaching, practice, worship and observance.

Everyone has the right to freedom of opinion and expression; this Article 19: right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

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Opponents of authoritarian regimes are gravely handicapped by lack of means to communicate their views to their fellow citizens. The 'system' protects itself by eliminating opposition. Its ultimate defence is to destroy - physically - those who refuse to submit. The clearest example of this in recent Spanish history was the Civil War, singular less because of the three bloody, savage years of its duration than because of the ensuing extreme violence on the part of the victors. G. Jackson author of a widely read study of the Civil War ('La Republica Espanola y la Guerra Civil', Ediciones Grijalbo, Mejico, 1970), estimates that some 200,000 were executed in the post-Civil War period alone. The mass executions ended about 1950, and it is virtually impossible to speak of the conditions in Spanish prisons before that year. Until then the prisons were not so much penal establishments as centres for those waiting for execution.

Only in 1956 did the Government begin to systematise penal regulations with the publication of the Prison Regulations, still in use today. The situation of Spanish political prisoners between 1950 and 1960 was characterised by their treatment as less than human beings and their complete isolation from the rest of

The most outstanding episodes of those years were linked to the political prisoners' struggle to preserve their freedom of conscience. The campaign for exemption from compulsory chapel attendance did not succeed until the late 1960's. Repression and silence was the response to protests and petitions to the prison authorities, the Government, and public opinion at home and abroad.

The Government has always denied the existence of 'political prisoners'. This denial is based on two attitudes: the first, that there can be no political prisoners because 'there are no political offences', but rather offences punishable under the Penal Code (which will be dealt with in a later section); the second, never overtly expressed by the authorities, that recognising the existence of political prisoners would mean recognising the failure of the policy of eliminating all opposition. Spain being a member of the UN and drawing closer to the rest of Europe, such an admission could also mean embarrassing inquiries into the repression of activities considered to be legitimate in most Western countries. There was, and continues to be, the additional possibility that this 'curiosity' could also develop amongst Spaniards themselves.

It is interesting to note that the mass media are systematically silent about the underlying motives of political offenders, while dwelling on the methods they employ. Overriding emphasis is given to actions that might disrupt law, order and civic peace - armed robberies, bombings, violent demonstrations - and no mention is made of the factors which have lead to the utilisation of such means.

The general situation in Spanish prisons today is inextricably bound up with the situation of the political prisoners. The fact that this report deals primarily with political prisoners should not, however, be interpreted as a lack of concern for the conditions under which criminal offenders are held. Every statement herein about the treatment of political prisoners applies equally to criminal offenders - everything, that is, except perhaps references to the granting of conditional liberty and remission of sentence through work, which will be discussed later. Amnesty International works specifically for the release of persons imprisoned, restricted or detained because of their political, religious or other conscientiously held beliefs; but we also seek to secure throughout the world the observance of the United Nations' Standard Minimum Rules for the Treatment of Prisoners and to combat the practice of torture and ill-treatment of all prisoners.

Criminal prisoners do not generally have the same kind of awareness of their own situation as do political prisoners. The fact that delinquency and poverty tend to go hand in hand is the best measure for understanding the helplessness of the criminal prisoner. The leaders of the struggle against the penal system in Spain (unlike France and the United States) are, therefore, the political prisoners. Not surprisingly, attempts to forge an alliance between criminal and political prisoners have been severely repressed by the prison authorities - see, for example, press reports of the 15-hour mutiny at Tarragona Prison, led mainly by the criminal prisoners, which ended with the intervention of the armed police and the Civil Guard.

1 'El Noticiero Universal', Barcelona, 6 November 1972; 'La Vanguardia Espanola', Barcelona 7 November 1972; and 'Tele-Expres', Barcelona, 6 November 1972. One of the organisers of the revolt was a political prisoner on remand, Ramon Trilla Farre. For his part in the incident he was punished with 240 days in an isolation cell.

At the entrance of almost every Spanish prison is a notice which reads: 'I can affirm without fear of error that anyone who has visited the prisons of other countries and compared them with ours will not have found institutions as equitable, Christian or humane as those established by our Movement.' (Francisco Franco).

The above declaration notwithstanding, Amnesty International, after collecting detailed information about Spanish prison conditions, has compiled this report in an effort to impress first upon the Spanish Government and then upon world opinion the extent to which Spanish prisoners are continually deprived of their basic human

We are aware that the report may contain certain inaccuracies in figures, dates and places; but we should point out that, in spite of inquiries to the Spanish Government and especially to departments within the Ministry of Justice (1), we have to date not received a thoroughgoing reply as to the conditions of Spanish prisoners in general and 'prisoners of conscience' (those persecuted because of their political or religious beliefs) in particular.

As a rule, we have not disclosed our sources, knowing that Spaniards who provide information about infringement of human rights to concerned international organisations are themselves liable to suffer reprisals. This is not to say that we have not worked from bona fide sources, nor that we have not done everything possible to verify their accuracy and assess carefully all material provided.

We would stress that in order to prevent publication of distorted versions of this report or extracts taken out of context, we have chosen to deal with the fundamental problems shared by the majority of Spanish prisoners, rather than the detail of prison life in different institutions.

Finally, we should emphasise that the following is not a comprehensive stredy but an initial attempt to analyse how the Spanish penal system works at present. We shall be glad to receive and consider any additional material, suggestions and opinions to which this report might give rise.

Whatever the authorities may have wished, however, they have been unable to suppress the fact that in Spain there are a considerable number of prisoners of conscience, both political and religious (conscientious objectors). The inconsistency of the Government in denying the existence of political prisoners borders on the absurd. Even the Spanish judiciary has recognised that certain aliens who take action against their own governments and are subsequently the subject of extradition requests, are politically motivated. And Spanish courts on various occasions have refused to extradite individuals, although guilty of crimes of violence against property or persons, on the grounds that these crimes were committed for political objectives. For a time, in fact, between 1967 and 1971, political detainees were allowed separate accommodation from other prisoners by virtue of the kind of charges against them. Nevertheless, the prison authorities have never spoken in terms of 'political prisoners' but rather 'public order prisoners' (an allusion to one of the bodies which has put most effort into creating political prisoners, the Public Order Court).

The situation in the prisons remained unchanged by the end of 1968: partial recognition of the right to separation of the political from the criminal prisoners; one victory won - voluntary attendance at religious services; and on the other hand, a constant series of obstacles imposed by the penal authorities. A decree passed on January 25, 1968, had made matters worse than before. It altered certain paragraphs in the Prison Regulations of 1956 and, in effect, abolished conditional liberty, which is recognised as a right and not as a privilege in the Penal Code, (see page ).

In December 1968, the political prisoners in the Provincial Men's Prison of Carabanchel, Madrid, went on hunger strike in protest against new visiting arrangements which had replaced the customary practice of communication through two wire grills, claimed to be un-hygienic and out of date. The new system consisted of a series of plastic screens that prevented all physical contact between the prisoner and his relatives. A tape-recording device between the screens ensured that no word escaped the prison officers on guard. The protest against the screens and increased vigilance symbolised all that has been described: there were political prisoners, and their general rights as prisoners as well as their particular rights as political prisoners were virtually ignored by the existing penal system. The authorities responded to the hunger strike in their usual fashion: the new visiting arrangements remained, while the protesters were punished with solitary confinement in 'punishment cells' and loss of their right to remission of sentence through work. But what had begun as a simple request to the authorities did make some people, previously unaware of the prisoners' plight, realise how necessary it was to require an explanation from the Government as to what lay behind the protest.

#### The Statute of the Political Prisoners

On January 16, 1969, the Madrid College of Lawyers held a special general meeting, with two items on the agenda. The first was a resolution to end special jurisdictions and courts - ie. to restore to the ordinary criminal courts the jurisdiction for every kind of offence. A petition calling for the abolition of the Public Order Court and the restriction of military jurisdiction to purely military cases was passed by majority vote; those who voted against it were lawyers representing the administration's point of view.

The second item concerned political prisoners: a resolution (passed with only one opposing vote - that of a Government lawyer) calling for the establishment of a commission in the Madrid College of Lawyers to draft a statute for political prisoners guaranteeing them the rights they had been demanding. Thereafter, this statute was the main weapon in the hands of the political prisoners and their lawyers.

The Government's response was silence alternated with punishments for the more militant political prisoners. In the meantime, the situation inside the prisons was characterised by confinement in punishment cells, punishments for violations of prison regulations, loss of remission through work, denial of conditional liberty, arbitrary transfers, prevention of oral or written contact with lawyers and families, censorship of books, and the consistent refusal to recognise the existence of political prisoners as such.

Religious prisoners of conscience joined the political prisoners. Conscientious objectors on religious grounds who asked to do alternative service were automatically court martialled and gaoled in military prisons. The list of prisons containing most of the political prisoners - Burgos, Segovia, Soria, Puerto de Sta. Maria - grew to include Castillo de Santa Catalina in Cadiz, Castillo de Galeras in

Cartagena, and the Castillo Militar de San Francisco del Risco in Las Palmas, where conscientious objectors now serve their sentences.

#### The Congress of Leon

This was the situation at the time of the Fourth Congress of the Spanish Bar in June 1970 at Leon. A resolution defending the Statute of the Political Prisoner was defeated; but in view of the distance between General Franco's statement (quoted at the beginning of this report) and reality, the Congress approved a motion to reform the penal system 'taking into account' the UN Standard Minimum Rules for the Treatment of Prisoners. Also approved was a resolution to abolish special courts and jurisdictions, and the Congress voted to appeal to the Government for a general amnesty for all political prisoners. The reaction of the Government, has, to date, been as follows:

a) Establishment of a second Public Order Court.

b) No limitation on the jurisdiction of military courts over political cases, and more frequent court martials (one of the most outstanding of which was Case 31/69 against members of the Basque nationalist organisation ETA; the trial ended with six death sentences, later commuted to long terms of imprisonment).

c) Re-enforcement of the powers of the administrative authorities which can by-pass the judiciary in depriving a citizen of his liberty by means of the 'Executive Procedure', thus rendering unnecessary a 'state of exception' - the suppression of the formal guarantees laid down in the Charter of the Spanish People.

d) Tighter prison discipline and an increase in the number of prisons allocated, or partly allocated, to political prisoners.

e) Curtailment of the professional work of lawyers, particularly those well known for defending political prisoners.

f) Impunity of extreme right-wing terrorist groups, responsible for the suppression of any form of democratic activity - among them, the Warriors of Christ the King (Guerrilleros de Cristo Rey), and the Spanish Nationalist Socialist Party (Partido Nacional Socialista Espanol) which appears to be the most important.

g) Total silence about prison conditions on the part of the mass media.

This, then, is the context within which our report has been written, in the hope that it will lead to a wider understanding of the existing conditions in Spanish prisons and to an effective demand for their reform.

# THE LEGAL FRANKEWORK

#### The Judicial Authority: Penal Code and Code of Military Justice

Article 1 of the Spanish Penal Code (the revised 1963 text, modified by the laws of April 8, 1967 and November 15, 1971) states: 'Offences or crimes are those voluntary acts or omissions penalised by the law.' In other words, Article 1 embodies the well-known penal principle of 'no crime without law', which shapes all legislation in the western world. According to this principle, no action or failure to act, however criminal, is punishable unless it falls into some legally defined category of offences. These categories are listed in the Penal Code and Special Penal Laws.

The Penal Code is the main body of laws in which offences and their corresponding penalties are defined. Section 2 of Book II consists of 13 chapters with the general heading: 'Offences Against the Internal Security of the State'. Here a variety of politically and socially motivated behaviour is designated as criminal; the subjects include offences against the Head of State, the Parliament (Cortes), the Council of Ministers, and the system of government; holding of meetings and demonstrations and forming illicit associations; rebellion, sedition, public disorders and illegal propaganda; contempt, insults and threats to authorities; possession and storing of arms, terrorism and possession of explosives.

The Code lays down heavy prison sentences for all these acts, many of which would not be illegal in a democratic country and particularly those invoking the freedom of assembly, expression and association embodied in the Universal Declaration of Human Rights and the European Convention of Human Rights Although Spain is a member of the United Nations and a party to the Universal Declaration of Human Rights, the fact that such activities are punishable by law illustrates the extent to which the Spanish legal system is different from that of other countries. 1

The rigorous restrictions on the exercise of basic human rights has led to the use of increasingly violent methods in the struggle for their recognition. As a result, acts defined as rebellion, sedition and terrorism are not only punishable by the Penal Code but also by another, still harsher body of legislation which imposes even greater limitations on the right to self-defence: the Code of Military Justice. Until July 30, 1959, the date of the promulgation of the Public Order Law, political or social crimes fell within military jurisdiction, under the Law of March 2, 1943, the Decree-Law of April 18, 1947 and the Code of Military Justice of July 17, 1945. The Decree-Law of Banditry and Terrorism, passed on Spetember 21, 1960, modified and unified the above leigslation, but did not remove the authority of the military courts to try crimes which might have a political motivation. The Law's terms were broad enough to include categories of offences which could also be dealt with in the Penal Code. Article 2 stated: 'In accordance with Article 286, No. 5 of the Code of Military Justice, the following shall be considered guilty of military rebellion and punished as specified in that Code:

1. Those who spread false information or propaganda in order to cause public disorder, international conflict or disrespect for the State or any of its institutions, officials or armed forces;

2. Those who, in any manner whatsoever, form organisations, engage in conspiracies, participate in meetings, conferences, or demonstrations with the objectives described above. Strikes, hunger strikes, sabotage and other similar actions shall be included under this Article when organised for political ends or conducive to serious public disorder.'

The decision whether or not the law could be applied to any particular individual was left to the discretion of the courts, empowered to deal with anything from minor single acts to planned collective actions which represent a more serious threat to public order. Under Articles 287, 288 and 289 of the Code of Military Justice, however, the sentences for such crimes range from imprisonment for 6 months and one day to death.

Although twenty years after the end of the Civil War the army continued to be responsible for repressing dissidents, Spain's geographical and economic situation required at least some moves toward liberalisation. The Public Order Court was, therefore, created (as provided for in the Public Order Law of 1959) to deal with offences that did not involve systematic violence. From 1963 to approximately 1969, this Court and the military courts shared the task of imprisoning political offenders, supported to a certain extent by the administrative authority with its own powers to detain without trial.

The Colleges of Lawyers, the General Council of the Spanish Bar, and the Congress of Leon not only repeatedly demanded the abolition of the Public Order Court and other special courts and jurisdictions, but also pressed for the repeal of the Decree-Law of Banditry and Terrorism. The demand met with a long period of official silence (during which the Burgos Court Martial was held), until the Head of State promulgated a law, published on November 16, 1971 in the Bulletin of the State (No. 44/1971), repealing the September 1960 Decree-Law and ensuing legislation.

Item 6 of the repealing law, however, called for the revision of those very articles of the Penal Code which dealt with the punishment of terrorist acts: 'Its provisions have hereby been adapted to meet the requirements of the present situation, with a view to the repeal of special laws which are no longer necessary or in order, including sections of the Code penalising terrorist acts by individuals or un-organised groups and membership in the latter. Competency to hear the offences to which those sections refer having been attributed to the ordinary courts, it is clear that that jurisdiction should pass to the Public Order Court (created by the Law of December 2, 1963).' The punishment for terrorist acts, according to Article 260 of the modified Penal Code, which concerns damage to property but not persons, is from 12 years and one day to 20 years' imprisonment.

Does this mean that after the reform of 1971 the jurisdiction over political offences - violent or non-violent - has been removed entirely from the military courts? That might be the case were it not for the fact that the Law of November 16, 1971 also adds certain articles to the Code of Military Justice:

Chapter One (2). Terrorism -

Article 294 (2), A. - 'Anyone belonging to or assisting any organisation or group the aim of which is to attack the Fatherland, its territories and institutions, or disturb the peace by causing explosions, fires, shipwrecks, derailments, interruption of communications, destruction of property, floods, bombings or other similar acts, or by any methods whatsoever that might cause serious destruction, shall receive a sentence of from 30 years' imprisonment to death if the crime caused death, mutilation or serious injury; otherwise the sentence shall be from 12 years and one day to 30 years' imprisonment.'

Article 294 (2), B. - 'Anyone belonging to or assisting any organisation or group, as defined in the above Article, who, with the same objectives, intimidates or blackmails others in order to win their support, shall receive a sentence of from 30 years' imprisonment to death, if the crime involved the death, injury or kidnapping of someone; if not, the sentence shall be from 12 years and one day to 30 years' imprisonment.'

Article 294 (2), C. - 'Anyone who, in order to raise funds for any organisation or group, as defined in the above articles, or in order to further their objectives, damages property, shall receive a sentence of from 30 years' imprisonment to death if the crime caused the death, mutilation, kidnapping or serious injury of someone; if not, the sentence shall be from 12 years and one day to 30 years' imprisonment.'

Article 294 (2), D. - When, in view of the circumstances of a crime, whatever its nature, the Military Judiciary decides that it does not fall within the scope of the preceding Articles, it shall pass to ordinary jurisdiction....'

## The Executive Authority: the Public Order Law

The tollowing, then, are empowered to pass sentence on those offenders who fall within their jurisdiction: the military courts, the special Public Order Court, the common law courts and other special courts and tribunals. Until 1971, the Executive authority to detain individuals for more than 72 hours without charge or trial was exercised only at moments of political or social crisis or under the so-called 'States of Exception' with the suppression of the minimum guarantees contained in the Charter of the Spanish People. When deemed necessary, the police could - according to the Law of July 30, 1959 - fine public order offenders, as defined in Article 2 of that Law; under 'States

Of the 1,361 suits filed in the Public Order Court from September 1971 to September 1972, 587 were against persons accused of illegal propaganda; 282 public disorders; 206 illicit association; 87 illegal demonstration; 55 insults to the Head of State; 25 illegal meeting; 17 coercion; 16 threats; 39 obstruction of the exercise of recognised rights; 16 clandestine printed material; 14 sedition; 3 offences against the nation; 3 crimes compromising the peace or independence of the State; 2 crimes against the Fundamental Laws; 1 offences against the flag; and 8 miscellaneous. ('La Vanguardia Espanola', Barcelona, 15 September, 1972.)

of Exception' and the suspension of Article 18 of the Charter ('No Spaniard may be detained except for reasons and in a manner prescribed by law. All detainees shall either be freed or brought to court within a period of 72 hours'), security forces could 'retain' persons in police head-quarters indefinitely sometimes until the restoration of Article 18. During such periods detainees are kept completely incommunicado, and there have been cases of persons held until the end of the 'emergency' only to be released without charges.

Since 1971, however, the Executive authority has regularly exercised what at first glance might seem to be an exceptional power: that provided for in Article 23 of the present Public Order Law. Administrative officials (police and security forces) may arrest someone, impose a fine for an infringement of public order and, under Article 23 of the Law (as amended in July 1971), continue to hold him until he pays the fine or provides what the responsible official considers an adequate surety. It would be reasonable to suppose that, since the fines are an administrative matter, the offender would have the right to appeal according to the Spanish Administrative Legal Ordinance. In fact, whether or not an appeal is made, he is imprisoned as soon as he is notified of the fine. With reason Minister of the Interior Garicano Goni stated in the Cortes that the Law of Public Order and its amendments (concretely, the aspect which has just been described) 'rendered the proclamation of a State of Exception unnecessary'.

The foregoing illustrates that Spanish legislation does penalise political activities; furthermore, it is obvious that the legislators themselves are moved by political considerations, for the whole complex of laws and rulings could only stand in a political context - ie, one in which the legislating authority is subordinate to the Executive. The response of a Government spokesman to the International Commission of Jurists 1962 study on the Spanish legal system should be evaluated in this light: with respect to the doubts expressed by the ICJ that a genuine rule of law existed in Spain, the official affirmed ambiguously that 'the rule of law can be said to apply in every state with a legal system'. The extent to which human rights are seen to be violated, however, puts into question the very fundamental laws of the Spanish state, and particularly Article 17 of the Charter of the Spanish people:

'Spaniards have the right to judicial security. All State bodies shall function in accordance with certain pre-established standards, which may not be arbitrarily interpreted or altered.'

Finally, it must be noted that the principle of double jeopardy is violated in practice. As indicated above, a person may be detained and fined by the administrative authorities (police) and then tried and sentenced by a special court for the same offence; not to mention the additional consequences of a police record - for a worker the mere fact of having been arrested can be considered by an employer as legitimate cause for dismissal without compensation, according to the Law of Labour Contracts, Article 77, Section A.

The protection of prisoners' rights is principally regulated by two bodies of law: the Penal Code and the Law of Criminal Procedure. More detailed provisions are contained in the February 2, 1956 Prison Regulations and the January 25, 1968 decree which modifies them. For purposes of clarity, this section will be divided into sub-sections on: Remission of Sentence through Work, Conditional Liberty and Punishments. We are focussing on these three subjects because, according to our information, they are at present the most controversial aspects of prison conditions.

#### Remission of Sentence through Work

PRISONERS Article 100 of the Spanish Penal Code provides that prisoners serving terms longer than six months can earn remission for the work they have done since being sentenced. Every two days worked earns and days worked earns and days. counting towards eligibility for conditional liberty. The Penal Code specifies only two categories of prisoner to whom remission shall be denied: those who attempt to escape and those guilty of persistent misconduct. Article 65 of the Prison Regulations listed more categories than the Penal Code; but the 1968 revision reduced them to the two named above, with the specification that 'misconduct shall also include the commission of a further serious offence before having paid the penalty for the previous ones.'

Time served on remand before going to trial (which may be as long as a year if bail is refused) is not subject to remission. Most importantly with respect to political prisoners, the right to remission can be lost as a punishment. The implications of this will be studied in a later section. For the moment it is sufficient to stress that since 1969, when political prisoners began to press for their rights, a large number of them have been denied, either partially or totally, remission through work. (See Appendix II)

#### Conditional Liberty

Article 98 of the Penal Code states that conditional liberty shall be granted to prisoners serving sentences of over a year provided they: (a) are in the final stage of thier sentence; (b) have completed three-quarters of the sentence; (c) have not been guilty of misconduct; (d) can guarantee that they will lead an honest life once they are set free.

Article 99 of the Penal Code states that conditional liberty shall last for the remainder of the prisoners' actual sentence. If, during this period, he commits a further offence, the conditional liberty will be rescinded and he will be sent back to prison to serve the rest of his sentence.

The only additional condition listed in Article 53 of the 1956 Prison Regulations was that the prisoner should have an elementary education and minimal religious instruction. The Article was not actually amended by the January 25, 1968 decree, but the latter did, in fact, introduce a number of new considerations on treatment of prisoners which would have an effect over the granting of conditional liberty. Before examining these, it should be pointed out that, in law, conditional liberty 'is not regarded as a privilege, but rather as a right to which all prisoners are entitled provided they meet the legally prescribed requirements' (page 106 of the monograph 'Delitos, Penas y Prisiones en Espana', Ministry of Justice, 1963). Earlier in the same document, it is stated that 'this right is granted on the assumption that the prisoner has been reformed by the treatment he has received.'

It seems that, until the mid-1960's, conditional liberty was granted almost automatically; but from about 1966 on, the last of the requisites listed in Article 98 has been very strictly interpreted, especially in the case of political prisoners. The official line of reasoning has been that if a political prisoner does not renounce his ideological beliefs, there can be no guarantee of his good behaviour once he is set free. The argument is easy to rebut, given the Government's insistance that no one in Spain is punished for his beliefs, so since the passing of the 1968 decree the prison authorities have adopted the following interpretation:

Article 48 of the decree states that prison sentences shall be served according to the provisions of Article 84 of the Penal Code, that is, a progressive system of stages (the Article says no more than that the application of this system will be regulated by penal legislation): 1) a period of re-education; 2) a period of resocialisation; 3) pre-release period; 4) conditional liberty.

According to the Attorney General, Fernando Herrero Tejedor, the total number of prisoners granted conditional liberty dropped from 2,061 in 1966 to 742 in 1970. ('La Vanguardia Espanola', Barcelona, 22 September 1971.)

'As prescribed in Article 5, the first three stages correspond to top security, intermediate, and open institutions, respectively. If a prisoner's condition merits it, he may begin at one of the higher stages, except conditional liberty, by-passing the earlier ones. As soon as he shows signs of reform, he shall be re-classified and transferred to the appropriate prison, or moved within the same prison from a top security to an intermediate or open wing - or vice versa if his behaviour deteriorates. His progress will depend on his conduct: greater responsibilities and more freedom will follow an improvement; failure to improve or a refusal to co-operate will result in his being sent to a lower stage.'

We reproduce the article in full because it has been the cause of most political prisoners in recent years not receiving conditional liberty. It stipulates that if a prisoner is to be granted conditio al liberty, not only must he have completed three-quarters of his sentence, he must also have passed through all three previous stages - or, more precisely, he must be in the third or pre-release stage. The application of conditional liberty cannot be measured by the number of prisoners whose petitions for early release are actually accepted. What is significant is the number of political prisoners whose cases are never considered because they are held back, under one pretext or another, in the first or second stage of penal treatment. 1

If it is argued that political prisoners are incorrigible, then the nature of their misconduct must be taken into account: do they attack prison officers and fellow prisoners, or do they merely demand their rights as human beings? The evidence that the proportion of eligible political prisoners who benefit from conditional liberty is much lower than the corresponding proportion for criminal offenders can only mean that the 'reforming' treatment applied to the former has been a total failure - a failure not attributable to the prisoners themselves, but to the fact that political prisoners exist.

#### **Punishment**

Punishments are regulated by the 1956 Prison Regulations, Articles 110 to 116, which categorise breaches of conduct as light, serious and very serious. As with all administrative procedure, punishments are carried out as soon as they are imposed, and appeals, even if the result is favourable to the prisoner, are resolved afterwards. Among the most notable forms of punishment are: prohibition of letters or visits; restriction of food to that provided by the prison; regression to a lower stage of treatment; confinement in punishment cells for from 1 to 40 days. Hunger strikes have, as a rule, been treated as very serious offences, and those who have engaged in them have been sent to punishment cells for 30 to 40 days.

The system of punishments may involve the loss of rights such as remission of sentence through work and conditional liberty; and this has been all too frequent in the case of political prisoners. If the objective of prison treatment is reform, then the system of punishments laid down in the Prison Regulations is irrelevant as far as political prisoners are concerned. For whilte the reforming purpose of penal laws and prison regulations may be applicable to ordinary criminal prisoners, it is not to those whose imprisonment is due only to the political and social structures of a given country at a given time.

For the purposes of this report, we shall use the general term prisoner (recluso) to refer to anyone who has committed a crime under the jurisdiction of the various III authorities which in Spain are empowered to order his imprisonment. That is to A LINE TO Say that the convicted prisoner (penado) - tried and sentenced by the Judiciary has previously been a detainee (detenido) - held by order of the Executive authority (the police) - and a remand prisoner (preso preventivo) - held by order of the Judiciary or the Executive if formal judicial proceedings are not opened against him. We cannot deal with convicted prisoners before looking briefly at the situation of detainees and remand prisoners.

#### From Arrest to Trial

The detainee, arrested on the basis of suspicion or proof of criminal behaviour, may be interrogated by the police for up to 72 hours in order to obtain sufficient information to warrant his indictment. He is kept completely incommunicado in the police station, forbidden to see a lawyer, not even allowed to communicate with relatives. His family is permitted to send him in some food and extra clothing, but the police may arbitrarily decide he cannot have it; and he may be treated only by official doctors. Whether released at the end of 72 hours or taken to court, he must face the police alone during this period. The constant complaints about ill-treatment, torture, threats and humiliations made with respect to Spanish police stations in recent years have, in the main, been ineffective because of the complete isolation of detainees under interrogation.

Solitary confinement can be prolonged in the case of prisoners held by the military authorities as long as the military judge commands and in some areas, such as Madrid, kept in the police stations together with police detainees. Yet another possibility for solitary confinement is presented by the Public Order Law, under which (as described in the Legal Section) any citizen may be deprived of his freedom for up to three months without having been brought before a court. Furthermore, in spite of the fact that this detention is spent in a state prison, not a police station, some prison directors have prohibited lawyers' visits on the grounds that their clients were 'police prisoners' - an argument which has no basis whatsoever in Spanish law. The above situation occurred specifically in 1971 in the former women's prison of Ventas in Madrid and in the Provincial Prison of Barce-

Detainees who are neither released nor held incommunicado by administrative order are transferred with the corresponding documentation to the judicial authority which the police themselves consider appropriate: an ordinary court, the Public Order Court, a military court, or one of the various special courts such as the recently renamed Court of Social Danger (formerly the Court of Vagabonds and Perverts). Here the detainee enters another 72-hour period, during which the judge may either order his release, imprisonment, or provisional release pending trial, with or without bail. If he has already given his statement to the judge, he may at this time be visited by a lawyer, but not by his family.

If the judge sends him to prison, the detainee then becomes a prisoner on remand awaiting trial. He is first of all thoroughly searched by the prison authorities, often a degrading experience, and taken to a cell where he is to spend the so-called 'observation period' in isolation from the rest of the prison. The length of the observation period varies from prison to prison and may be anything from

Amnesty International will be publishing a World Torture Report - with a section on Spain - in the autumn of 1973.

<sup>1</sup> It is up to the prison governor to initiate an application for conditional liberty on behalf of any prisoner, and his recommendations, together with the prisoner's record, are sent to the Provincial Committee on Conditional Liberty, then to the Conditional Liberty Section of the General Prison Administration, then to the Patronato de Nuestra Senora de la Merced (the office within the Ministry of Justice responsible for general decisions affecting the prisoners' welfare and discipline), and finally to the Council of Ministers. The application, however, may be rejected at any step along the way or returned to the prison governor for 'further consideration at a later time'. The reasons usually given for the refusal of an application are that the prisoner in question needs to continue individualised treatment', that he does not 'offer sufficient guarantees of leading an honourable life in freedom', or that he is not in the third stage of imprisonment. The Ministry of Justice maintains that there is no discrimination against prisoners 'sentenced for offences against the security of the State' with respect to conditional liberty. Former Minister of Justice Sr. Oriol y Urquijo affirmed in the Madrid press on January 6, 1972, that 24 political prisoners had been granted conditional liberty in 1970, 72% of the cases considered. But these figures do not reveal how many political prisoners eligible for early release were not recommended by their prison governors or had their applications rejected before they ever reached the Council of Ministers. (See Appendix II)

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 ill-treated. 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 few 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.

five to 15 days, during which time the prisoner may be visited by no one except his lawyer. The purpose of this solitary confinement is to assess his intelligence, health, and mental stability, although prisoners do not, in fact, realise that they have been 'in quarantine' until afterwards. In June 1972, a prisoner in Burgos described the time he had spent in 'the period':

'There was nothing more in that dirty cell than a wretched bed with broken springs, a filthy, disintegrating straw mat for a covering, and two stinking blankets... Some of the window panes were missing .... I was not given anything to wash with soap, toilet paper, toothbrush or paste, etc.'

Another in the Provincial Prison of Barcelona stated:

'Sanitary conditions in the observations cells are non-existent. The stench is unbearable. The blankets are in rags, the toilets are blocked ....'

A political prisoner in Teruel wrote in October 1972:

'When political prisoners enter prison, they spend 30 days of observation in an extremely dirty cell with no wash basin and a toilet that does not flush. If the window is broken, you have to wait several days before they put in a pane. The temperature sometimes reaches minus 14 degrees centigrade, but they only give you two blankets.'

Once the observation period is over, the prisoner joins the general life of what are called the 'remand centres' while awaiting trial. After being sentenced, he is transferred to an actual prison. Most provinces which have a district court also have a remand centre. Some remand centres house convicted prisoners with sentences of less than six months; exceptions include Carabanchel Prison in Madrid, which takes prisoners serving less than two years.

The remand centres are more flexible than the prisons proper to the extent that there are fewer restrictions on prisoners' contact with their relatives and lawyers. Food, medical attention and work and educational facilities are much the same for both convicted and remand prisoners, but there is an important difference with respect to rights: remand prisoners may not work for remission because they have not yet been sentenced. A great many are awaiting trial in the different remand centres around the country, some for more than a year and are then acquitted or given a sentence shorter than the time they have already spent in prison. This applies as much to criminal prisoners as to political prisones.

In order to prevent a concentration of prisoners with similar ideological motivations in any one place, they are widely dispersed among distant prisons. Until 1963, almost all political prisoners were held in Burgos, Caceres, Soria and Alcala de Henares women's prison; after that year they were also sent to Jaen, Palencia and Segovia prisons. At present, to the best of our knowledge, political prisoners are being held in various wings of the Barcelona prisons, in two wings of Carabanchel of Madrid, in Seville, Valencia, Oviedo, Salamanca, Valladolid, Teruel, Ocana, Jaen, Soria, Segovia, Palencia, Basauri, San Sebastian, Pamplona, Cartagena, Cordoba, Puerto de Sta. Maria, Burgos, Caceres, Alicante, Alcala de Henares women's prison, Malaga, Vigo, Almeria (for prisoners over 60), Zamora (for priests), 1 Las Palmas de Gran Canarias, Tenerife, Santona-Dueso, and Lerida. Appendix I contains a list of penal institutions, provided by the General Prisons Administration, classified as ordinary, hospital and juvenile. According to that official document, there are 20 ordinary prisons - apart from the remand centres; in none of these are there more than 50 political prisoners and many have no more than 10 or 20.

Having examined in an earlier section the prison regulations as they affect the convicted political prisoners in particular - remission of sentence through work, punishments and conditional liberty, we shall now turn to the living conditions within the prisons. A reproduction of all the information available to us is beyond the limitations of this report, and even the following summary concerning the very basic aspects of prisoners' life is, necessarily, incomplete.

#### Food

The daily budget allotted by the Government to the prisons was in June 1972:

- Per ordinary prisoner 22 pesetas (about 15p)
- Per sick prisoner

- 36 presetas (about 24p)

Per prisoner with

special diet

- 44 pesetas (about 29p)

The amount of money spent on food for each prisoner is the above *less* expenses for fuel, lighting, cleaning materials and other 'auxiliary products'. The prisoners themselves play no part in choosing the menu. The quality of the food provided varies from prison to prison, but in general the meals are scanty, lacking in proteins, and green vegetables, and extremely badly cooked. One example of a weekly menu comes from Burgos Prison:

Monday Breakfast - coffee with milk

unch - stewed potatoes and meat

low- quality fish

- one orange per - noodle soup

one egg and chips

Tuesday Breakfast - coffee with milk

Lunch - broad beans

- small portion of mince

- one orange

upper - lentils

potatoe omelette

Wednesday Breakfast - coffee with milk

Lunch - beans

- small portion of cod

- one orange

ipper - noodle soup

stewed potatoes and meat

Thursday Breakfast coffee with milk

stewed potatoes and meatone egg and chips

one orange

Supper - lentils

crackling

Friday Breakfast coffee with milk

stewed potatoes and meat
2 meatballs in tomato sauce

- a small portion of quince

Supper - noodle soup

- potato omelette

Breakfast coffee with milk

ch - broad beans

- crackling

- one orange

Supper - lentils

one boiled egg

Breakfast coffee with milk

rice soupstew of meat and potatoes

- stew of meat and p

Supper - noodle soup

one boiled egg

This kind of diet taken over a long period - three years or more - is bound to result in health damage. The most common illnesses among prisoners are gastric upset and pyorrhoea, due to vitamin deficiency. The compulsory installation of canteens in the prisons has helped to complement the meals supplied by the administration, at the prisoners' own expense: almost all the monthly earnings they receive for work done in the prison goes towards buying essential food. No prisoner, however, has any part in the running of the canteen.

Another important addition to the prison diet is the food brought in by relatives, which often is the only real nourishment prisoners receive and constitutes a considerable financial burden for their families. This is true above all in the case of political prisoners.

#### Medical attention

Saturday

Sunday

The reports which have reached Amnesty International indicate that medical care is extremely inadequate, not only because of the shortage of prison doctors but also because none of them spends long enough in the prisons to give the inmates more than superficial attention. Prisoners must pay out of their own pockets for any

According to the 1953 Concordat between the Vatican and the Spanish Government, imprisoned priests are to serve their sentences apart from other prisoners. See Appendix IV.

special medicines and visits by private doctors, if these are permitted. In the majority of prisons, however, the responsibility for medical care is in the hands of persons totally unqualified to provide it; they are referred to as 'nurses' and at best are assisted by a prison employee with some medical training. Prison infirmaries are not equipped to handle emergency cases, and prisoners who undergo surgery are at particular risk.

The situation of mentally disturbed prisoners is especially serious. They are rarely sent to one of the private psychiatric centres around the country, and there are only three prison institutions for the mentally ill - the Penal Psychiatric Sanatorium in Madrid, the Prison for Criminal Psychopaths in Huesca and the Penitenciary for the Mentally Ill in Leon. Quite apart from the conditions of those institutions, the fact that there are so few of them means that a great many mental patients continue to live together with the normal prisoners

#### Visits and Correspondence

Contact with relatives is permitted twice a week in most prisons. Visits normally last for 30 minutes and take place in special visiting rooms in the presence of one or more guards who may interrupt the conversation if they feel it violates regulations. One way of punishing a prisoner for breaches of discipline is to deprive him of visits from his family for an arbitrarily imposed length of time. Indeed, the use of the Prison Regulations so enforces the discretionary powers of the prison governors that what in one prison might be considered a slight offence is punished as a very serious offence in another. All conversations with relatives must be in Castillian Spanish; regional languages are prohibited, particularly Basque.

The same restrictions apply to laywers' visits, except that they have no time limit and can be held any day of the week. There are, however, other problems: lawyers are often refused admission to some prisons on the grounds that they were not directly invited by the prisoner concerned; or that there are suspicious to the effect that the visit will range on to topics which, according to the governor's whim, are unsuitable; or that there is no record in the prison files of the lawyer having defended the prisoner he wants to visit. All of this, in spite of the fact that a lawyer always carries with him a certificate signed by the Dean of his College of Lawyers confirming that he is acting for a particular client. If a lawyer is allowed to see his client, the interview takes place in a tiny room and is supervised by up to five guards selected by the governor. As with family visits, the guards may interrupt or record the conversation as they see fit. Even in prisons where visits are not so rigorously supervised, where there is only one guard posted by the door, the room may well be bugged. Prisoners on remand are treated differently from convicted prisoners in this respect. The former have unsupervised visits, while the latter may not be allowed a visit at all, without ever knowing that it has been denied. I

Prisoners' correspondence is heavily censored. Letters sent to them may be witheld; those they write are sometimes not posted, and the prison officers frequently blot out offensive paragraphs. The contents of a letter written either by a prisoner or his family can result in punishment. Prisoners may write only to immediate relatives and their lawyers; special authorisation is required to send a letter to anyone else. Those in some prisons who are engaged to be married must present confirmation from a priest before they are allowed to write to their fiancees.

The authorities act quite arbitrarily in controlling the prisoners' books and magazines. Books about political philosophies such as Marxism or Socialism - and on occasion even the works of Freud and Proust - are forbidden. The censorship of Marxist literature is particularly strict in the case of political prisoners, while any material with references to sex may be considered detrimental and refused to criminal prisoners. Most newspapers and journals are either totally banned or permitted only in censored form. Prisoners encounter a multitude of difficulties in obtaining literature which circulates freely in Spain, and they have been prevented from receiving the Prison Regulations. The same can be said for work materials such as typewriters.

#### Ill-Treatment by Prison Officaers

There is considerable documentation in our files on allegations of ill-treatment in the prisons; we shall, however, have to limit our report to several cases for which there has been a court decision in order to avoid possible misrepresentations 1:

1) 'On April 28, 1972, Marcos Palmes, a member of the Barcelona College of Lawyers, went to visit several of his clients in the Barcelona Provincial Men's Prison Francisco SANCHEZ Salvat in particular, because his case was in the final stages of pre-trial preparation. After a lengthy wait during which Sr. Palmes explained repeatedly that he had come to see the prisoner for the above reason, Francisco Sanchez eventually appeared, accompanied by two friends who supported him as he walked. His face was completely disfigured with great swellings and when his shirt was lifted similar swellings were revealed on his chest. All of this was seen by other lawyers present.

'A complaint based on evidence from the prisoner, was submitted that same day to the police court. Later, preliminary proceedings were initiated by the Barcelona Trial Court No. 3, which sent the case to Municipal Court No. 8 for police-court action. The facts, as presented at the hearing on 17 November, were as follows:

'Sanchez Salvat, member of the cleaning team in the central part of the prison, happened to pass by a group of prisoners who were engaged in an argument. He intervened briefly and, it seems, was slightly scratched between the nose and cheek, near the eye. As he returned to his cell, prison officer Teodomiro Rodriguez Rodriquez asked him who had been involved in a fight. The prisoner replied that he had scratched himself. Taken before the Chief Prison Officer, he again refused to say who had injured him and was then beaten with rubber truncheons and sent to a punishment cell for 40 days.'

'On November 27, 1972, Judge Escarpizo-Lorenzana ruled that 'both prison officers had beaten Francisco Sanchez Salvat with rubber truncheons, and as a result he had sustained injuries necessitating seven days' medical attention.'

The officers were sentenced to three days' detention and costs.

The Public Prosecutor and the prison officers' lawyer appealed to a higher court, and on January 12, 1973, a new sentence was delivered by the corresponding Court of the First Instance, which anulled the first ruling. Francisco Sanchez Salvat was a criminal prisoner.

2) On March 23, 1972, the Director General of Penal Institutions received the following information from several lawyers belonging to the Madrid College of Lawyers:

Amnesty International appealed to the Minister of Justice for a public investigation of the situation. To date, we have received no reply to that appeal.

In January 1973, 17 political prisoners at Segovia Prison went on hunger strike after six of them were placed in solitary confinement for 40 days. The punishments were imposed because the prisoners appealed to the prison authorities to attend to another inmate who was suddenly taken ill; specifically, they asked that someone be allowed to stay with him during the night or that the infirmary be opened, in case he suffered further attacks (the Segovia Prison infirmary has reportedly been closed for more than a year and a half).

The regulations were abruptly changed, however, at the end of May 1973, when authorities in Carabanchel Prison, Madrid, began to demand from defence lawyers a certificate issued by the tribunal in which their clients were to be tried before permitting a visit; in addition, remand prisoners were no longer to be allowed to see their lawyers in private. Several lawyers quickly lodged a formal complaint with the Supreme Court and with the General Director of Penal Institutions, on the grounds that this new procedure limited to an even greater extent their preparation of an adequate defence for prisoners awaiting trial.

Shortly before this report was completed, 19 political prisoners in Soria Prison went on hunger strike (10 June, 1973) in protest against the disciplinary measures taken previously against seven of them - who had been confined in punishment cells since 26 May - and against the ill-treatment to which two of them had been subjected, allegedly to force them to admit to having a written clandestine document about prison conditions. According to reports which reached Amnesty International, the prisoners on strike drew up a denunciation of the beatings suffered by Jokin Gorostidi and Xabier Larena at the hands of prison guards and sent it to the judge of the Court of the First Instance in Soria, by way of the prison governor, on 8 June. The governor is said to have held back the denunciation for several days, while on 11 June Gorostidi and Larena were transferred to Cartagena Prison, in the south of Spain. On 12 June, when the judge finally received the denunciation, he went to the prison to take the testimony of its signatories, but by then he could not examine the two prisoners who had been beaten.

'First - On March 18, 1972, Jose Antonio Minquens Garcia, case 13/72 indicted by Madrid Court of Instruction No 13, was sent to Carabanchel Provincial Men's Prison.

Second - According to fellow-inmates' testimony, confirmed by Sr. Minquens' lawyer Sr. Julio Rodriguez, who had visited him in the cells of the Palace of Justice, Sr. Minquens was suffering from a severe nervous disorder when he entered prison.

Third - He was assigned immediately to the 'observation cells' in No. 7 Wing but resisted attempts to take him there and bit the hand of the prison guard who tried to control him. He was finally led by six or seven men to cell 27 on No. 7 Wing reserved especially for the observation of dangerous or mentally disturbed prisoners. The cell, with no window panes and no water, has only an iron bed. The above was witnessed by the undersigned (the names of the witnesses are listed).

Fourth - Once in cell 27, Sr. Minquens kept hammering on the cell door, for which it appears he was punished with the 'sandwich treatment' - tied up between two mattresses to subdue him. What is beyond doubt is that he continued to cry out all night. The officer on duty, Sr. Mauro Martinez Portillo, told three prisoners acting as assistant guards, Sr. Fermin Ruiz Olazaran, Sr. Jose Antonio Andrade Marchante and Sr. Manuel Gil Martinez, to 'shut that one up'. The three went to cell 27 and apparently lashed Sr. Minquens to the cell window and proceeded to beat him from about 11 pm until 1 am. The following prisoners on No. 7 wing witnessed the above incidents and heard Sr. Minquens' cries of pain (the names of 14 prisoners are listed).

Fifth - Later, it seems that the medical assistant, a prisoner named Sr. Sevilla, together with other prisoners responsible for first aid from Wings Nos. 3 and 7, gave Sr. Minquens three 25 mg. shots of largactyl. Then all was quiet.

Sixth - The next day the prisoners discussed the screams and beating they had heard the previous night on No. 7 Wing. A rumour spread that afternoon that Sr. Minquens was dead and that his body had been found, still bound to the window, by a new prison officer, Sr. Sabino Alonso Muniz, when he came on duty. At approximately 7 pm another prisoner, Sr. Ramon Cerbera Carranza, noticed that the leather straps had been taken off Sr. Minquens, and shortly afterwards all No. 7 Wing prisoners were locked in their cells while Sr. Minquens' body was removed from the cell and taken to the infirmary.

Seventh - Later, as the prisoners of No. 7 Wing were watching television, one of them mentioned what had happened and they switched off the set as a gesture of mourning. They returned to their cells, and at 11 pm that night a number of them were sent to punishment cells for their demonstration of sympathy

Eighth - In the meantime, the prison doctor Dr. Baeza arrived at the prison around 9 pm that same night, while the Police Court of Instruction No 8 was there to investigate the case. The report of the forensic doctor confirmed the presence of lesions on the body and head of Sr. Minquens.

Ninth - It should be pointed out in addition that while he was being led to the punishment cells at 11 pm on 19 March, Sr. Angel Fouce Lara was struck by the officer of the lower cells in the presence of other guards. As he was locking the prisoner in the cell, the officer said: 'I'll see to you later'.

Because of what had happened the night before, Angel Fouce Lara was so frightened that he cut his veins with a mussel shell he had found in the cell. He lost half a litre of blood before he was discovered and treated .....'

The lawyers who signed this complaint concluded with an appeal for an investigation into the affair.

On February 7, 1973, the following report was published in the Barcelona daily, La Vanguardia Espanola:

The Madrid Court of First Instance No. 8 has ordered proceedings against 'wo Carabanchel Prison officers charged with gross negligence, granting them both provisional liberty on 50,000 pesetas bail.

'According to the indictment, Jose Antonio Minquens Garcia, remanded in custody by Madrid Court of First Instance No 13, accused of misappropriation of funds and breach of confidence, entered Carabanchel Prison on March 18, 1972 at approximately 8 pm. The prisoner was then in a state of acute agitation as a result of having taken a large, almost lethal dose of amphetamines. When the Chief Officer, Octavio Sanchez Giron, and the medical assistant on duty, Ramon Garcia Merraiz, learned of Sr. Minquen's condition, the former decided that he should be restrained to prevent him from harming himself while having convulsions. The assistant ordered that if the convulsions continued, he should be given a 25 mg. shot of largactyl and a shot of remaflin. Both these officers, however, failed to report the prisoner's condition to the Governor and the doctor on duty. They

did not ensure that he received proper treatment in the infirmary, nor did they have him transferred to the prison hospital.

Jose Antonio Minquens remained in a state of agitation that night, and in the early hours of the following morning he collapsed. His condition deteriorated rapidly during the afternoon, and he died at 7 pm.

The two above cases involved criminal prisoners. The death of Mario Capote in Segovia Prison in the Spring of 1969 (because of being transferred from another prison without the necessary medical attention) is another example of the hidden face of Spanish prisons, in this case concerning a political prisoner. And the list of prisoners who become ill or die does not end here. The medical condition of political prisoners Narciso Julian Sanz, Celestino Gonzalez, (now released), Miguel Pineda Rasco; the death of Justo Lopez de la Fuente 1; and all the cases of those still in prison which have been brought to our attention ought to move the responsible authorities to reflect on Rule 57 of the 1955 UN Standard Minimum Rules:

'Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline aggravate the suffering inherent in such a situation.'

So long as society continues to be governed by the principle of homo lupus homini, and until new ways of thinking supercede the existence of prisons, governments that consider themselves civilised would do well to observe those Rules.



Jose Celasterno Gonzales Fernandez (Case history see page 20)

1 See below.

#### Narciso JULIAN Sanz

A railway worker, he fought for the Republic in the Civil War and in 1939 was condemned to death by the Nationalists. The sentence was commuted first to 30 and subsequently to 20 years' imprisonment, but Narciso JULIAN was released in 1946 as a result of a partial amnesty. Seven years later he was re-arrested on two charges relating to his political and trade union activities as member of the Communist Party of Spain. At the trial for the first charge in 1955, Sr. JULIAN received a 21-year sentence; and because of this conviction, the remission of his earlier sentence was revoked. At his third trial in 1956, he was sentenced to 20 years' imprisonment, which would have to be served once the first two terms were completed. The total years were reduced by various general pardons, but when he was finally released in October 1972, he had spent altogether more than 25 years in prison. He is now 60 years-old.

> In 1962, while he was being held in Burgos Provincial Prison, Sr. JULIAN was diagnosed as suffering from spinal arthritis and anchylosis, as well as a duodenal ulcer. After six months of treatment in the Yeserias Prison Hospital, Madrid, he was returned to Burgos Prison, but soon had to be transferred back to Yeserias when his condition deteriorated. Confined to a wheelchair for several years afterwards, he was finally sent to the Provincial Prison of Almeria in 1967. A section of the Provincial Prison serves as a 'Geriatric Institute' for ill and/or elderly prisoners, although it is not equipped to provide specialist treatment, and many of the prisoners' families - like that of Narciso JULIAN - live too far away to be able to visit more than several times a year.

The warm, dry climate of Almeria helped to improve Sr. JULIAN's health somewhat, but repeated appeals from his wife and lawyer that he be released on the grounds of his age and prolonged illness were fruitless. Assorted government authorities ranging from the General Director of Penal Institutions to the Ministers of Information and Justice - had affirmed since 1968, in fact, that the prisoner could be released on conditional liberty on a number of different dates, beginning in January 1971. It was not, however, until after his application for conditional liberty had been denied once by the Council of Ministers in July 1971, that another applications was eventually successful more than a year later.

#### Jose Celestino GONZALEZ Fernandez

A miner from Asturias, he was dismissed from his job at the coal tace in June 1964 and never offered further employment or adequate compensation. As a result of his involvement in illegal trade union activities - participating in meetings and strikes to press for better working and safety conditions - Jose GONZALEZ Fernandez was tried first in 1966 and again in March 1968. Altogether, he received a sentence of nine years and four months, which he began to serve in Soria Prison. It was here that he first became ill in June 1969, after the political prisoners had staged two hunger strikes in protest against prison conditions. Jose GONZALEZ, among others was punished with confinement in a punishment cell, where he suffered a severe attack of colitis and strong pains in the back. The prison authorities transferred him to the civil hospital in Soria because of his serious condition and the lack of medical facilities at the prison. The doctors diagnosed a renal tuberculosis of one kidney, but the prison medic disagreed and certified that Sr. GONZALEZ was fit enought to be sent back to the prison infirmary for treatment. His condition did not improve, however, and it was not until a new prison doctor arrived at Soria and pressed for the prisoner's transfer by ambulance to the prison hospital of Yeserias in Madrid, that a full examination was made and the diagnosis of renal tuberculosis confirmed in March 1970.

By this time, Sr. GONZALEZ was complaining of pain in his back, on the side where the kidney was not affected. Fearing the possibility of a second infected kidney, his wife appealed urgently to the Minister of Justice for his transfer for treatment in a civil hospital under private doctors. The appeal was refused because the doctor in charge at Yeserias did not consider his medical condition warranted such measures and ordered him sent to the Carabanchel Men's Prison in Madrid. Confined in an ordinary cell at Carabanchel, Sr. GONZALEZ then went on hunger strike to draw attention to his health. He was moved to the Carabanchel infirmary, but soon afterwards it was decided that he could be returned to Soria. Rapid intervention by his wife, who reminded the prison governor of the death of another sick political prisoner after his transfer from Soria to Segovia (Mario Capote), resulted in his being allowed to remain at Carabanchel.

By May 1970, the prisoner's wife and lawyer were so concerned about his condition that they asked that he be seen by a private specialist of their choice. This was permitted, and the doctor confirmed the earlier diagnosis, prescribed a treatment of at least two years, recommended a full medical analysis to discover the cause of the pain in Sr. GONZALEZ' back, and suggested his immediate transfer to Yeserias prison hospital in Madrid.

After a month's delay, he was taken to Yeserias, where further examination revealed cirrhosis of the liver and an arthritis of the back, in addition to the renal tuberculosis. It was not, however, until April 1971 that he was transferred to a civil hospital for removal of the infected kidney, and several months later - in spite of his still serious medical condition - he was taken to the Provincial Prison of Jaen, in southern Spain, which, among other things, made it virtually impossible for his wife to visit him (she lives in northern Spain).

After repeated appeals that Sr. GONZALEZ be released on grounds of ill health. (or, alternatively, be returned to Yeserias for further treatment) he was granted conditional liberty by the Spanish Council of Ministers in May 1972.

#### Miguel PINEDA Rasco

A painter, he was first imprisoned at the end of the Civil War, received a second sentence of 12 years in 1946, and in 1952 was tried a third time and sentenced to five years' imprisonment. Arrested yet again in 1964, he was tried in February 1966 on charges of helping to re-organise the Communist Party in Valencia; the court pronounced a 15 year sentence, which was reduced on appear to 11 years and six months. Miguel PINEDA served most of his last term in Soria Prison and was finally released at age 56 in January 1972, an extremely ill man:

".... The time I spent in Soria was truly calamitous, with confinement in punishment cells, on some occasions for 78 days, and with the virtually constant illnesses I contracted as a result of those punishments.

'The first operation I had was for perforation of the stomach, brought on by nerves and conditions in the prison. The operation was badly done, and three days afterwards I developed a complication of the prostate gland. A month and a half later I was operated again, and I am still suffering the consequences of the inexperience and ignorance of the prison doctor. I then had gall-bladder trouble for a year and a half before I was finally taken to the hospital in Soria for a general examination. There, after taking a urine analysis and radiograms, they told me that I would have to be operated again, this time for gall stones. I waited for two long and very painful weeks to be taken to the Penal Hospital, where I had the operation 11 days after being admitted.

'Result: because of prison conditions, the meals I had to eat, and lack of proper medical attention, in addition to a strong attack of hepatitis and high nervous tension, my release was increasingly delayed - apart from the fact that I was not granted conditional liberty in spite of my critical state of health ...'

During the long periods when Miguel PINEDA was confined in the prison infirmary after his several operations (two in September 1970, the third in November 1971), he was not able to earn remission of his sentence through work, prolonging his imprisonment and further damaging his health.

Immediately following his release, he underwent another series of medical tests and since then has been subjected to lengthy treatments and special diets for his gall-bladder, liver, and a stomach condition which - according to his doctors - was caused by the poor medical attention he received in prison. Classified as permanently unfit for work, he applied through the official Trade Union Organisation for a sickness pension as well as medical welfare, but both have been denied him on the grounds that since he had not been paying his contributions while in prison, he was in arrears and therefore not entitled to benefit - although he had been contributing regularly for 10 years before his arrest in 1964.

#### Justo LOPEZ de la Fuente

Commander of a Republican brigade during the Civil War, he later fought in the Soviet Union army in World War 11 and eventually returned to Spain clandestinely. Arrested for allegedly fomenting labour untrest, he was tried in December 1964, and sentenced to 23 years' imprisonment; in February 1966 the Supreme Court reduced the sentence, on appeal, to 14 years and three months. He was then 60 years old.

Sr. LOPEZ de la Fuente was reported in 1965 to be suffering from a cancerous tumour in his chest. According to information from the Spanish prison authorities in February 1967, he had been operated upon and was receiving adequate postoperative treatment in the prison hospital. He died, however, on 1 May, 1967, at the Hospital San Juan de Dios, where he had been transferred from Burgos Prison only a short time before.

# APPENDIX 1

#### List of Prisons

Institutions for Minors

3. Alcala de Henares

1. Ocana

2. Terucl

4. Liria

Dist Of Figoria	
Ordinary Institutions	
1. Puerto de Santa Maria	1st stage prison (top security) for highly dangerous professional criminals
2. Cordoba	1st stage prison (top security) for highly dangerous professional criminals
3. Burgos	1st stage prison (top security) for professional criminals
4. Caceres	1st stage prison (top security) for petty criminals
5. Cartagena	1st stage prison (top security) for incorrigible and unadaptable criminals
6. Segovia	1st stage prison (top security) for criminals by conviction
7. Soria	1st stage prison (top security) for criminals by conviction
8. Jaen	2nd stage prison (intermediate) for criminals by conviction
9. Palencia	3rd stage prison (open) for criminals by conviction
10. Alcala de Henares	Women's prison (all three stages)
11. Las Palmas de Gran Cana	irias Three-stage prison
12. Tenerife	Three-stage prison
13. Santona-Dueso	2nd stage prison (intermediate)
14. Alicante	2nd stage prison (intermediate)
15. Lerida	2nd stage prison (intermediate)
16. Nanclares de la Oca	2nd and 3rd stage prison (intermediate and open).
17. Herrera de la Mancha	3rd stage industrial and agricultural reform institute (open)
18. Castillejo	3rd stage prison (open)
19. Mirasierra	3rd stage prison (open)
20. Onda	3rd stage prison (open)
Hospital and Special Instituti	ons
1. Madrid	Penal Hospital
2. Madrid	Penal Psychiatric Sanatorium
3. Madrid	Penal Maternity and Pediatric Centre
4. Almeria	Penal Geriatric Centre for prisoners over 60 years old and unsuitable for the normal prison regime (three-grade)
5. Huesca	Prison for psychopathic prisoners
6. Badajoz	Prison for dangerous homosexuals
7. Huelva	Prison for homosexuals
8. Leon	Medical-Pedagogic Centre for illiterate and men- tally backward prisoners
9. Zamora	Prison for priests

1st stage prison (top security) for criminals

2nd stage prison (intermediate) for minors

for criminals between 21 and 25 years of age

2nd stage prison (intermediate with an open wing)

between 21 and 25 years of age

3rd stage prison (open) for minors

# APPENDIX 2

The application of Conditional Liberty and Remission to Political Prisoners in Segovia Prison

#### March 1972

(Extracts from a document produced in Segovia Prison, translated by Amnesty International)

#### 1. Conditional Liberty

Since Segovia was designated in May 1969 as a prison for political prisoners, not one of the prisoners held there has been given conditional liberty. As proof of this statement, a list of those who served all or part of their sentences in Segovia Prison follows below: (the list contains the names of 55 prisoners released without conditional liberty. NOTE: In addition, 3 prisoners still adopted by Amnesty groups were transferred to other prisons without being granted conditional liberty: Antonio GALLARDO Navarro, transferred to Carabanchel in Madrid, should have received two years of conditional liberty from his eight-year sentence; Jose Luis GALLARDO Navarro, transferred to Santa Cruz de Tenerife, should have received two years of conditional liberty for his eight-year sentence and Francisco KUIZ Garcia, transferred to Jaen, should have received one year and 15 days conditional liberty for his four-year one month sentence).

The non-application of conditional liberty has meant for all the prisoners together an additional 83 years and 10 months imprisonment. There are today in Segovia Prison, among others, the political prisoners whose names and details follow. All should now be in their homes, but applications in their favour have not even been made to the higher authorities. (Out of the 16 names given, the following are prisoners adopted by Amnesty groups):

Manuel SANCHEZ Marin - Sentenced to 7 years 8 months; due one year 11 months conditional liberty. According to the law, he should now be free.

Jose SANDOVAL Moris - Sentenced to 15 years 3 months; due 3 years 9 months and 23 days conditional liberty. He should now be free.

Luis Antonio GIL Lopez - Sentenced to 14 years 3 months; due 3 years 6 months 23 days conditional liberty. He should now be free.

Jesus MARTINEZ Velasco - Sentenced to 14 years, due 3 years 6 months conditional liberty. He should now be free.

Antonio MONTOYA Perez - Sentenced to 14 years; due 3 years 6 months conditional liberty. He should now be free.

Victor DIAZ Cardinal Gonzales - Sentenced to 13 years 3 months; due 3 years 3 months and 23 days conditional liberty. He should now be free.

Paulino GARCIA Moya - Sentenced to 10 years; due 2 years 6 months conditional liberty. He should now be free.

Segundo MARTIN Cantalejo - Sentenced to 6 years; due 1 year 6 months conditional liberty. He should now be free.

In short, out of a total of 27 political prisoners held in Segovia Prison, 16 are eligible for conditional liberty but have not been granted it. The denial of the right of conditional liberty means for these 16 prisoners altogether an additional 41 years, 9 months and 25 days of imprisonment. The response of the prison Junta to their appeal for conditional liberty was the following: 'The Prison Council in its meeting of this date agreed to deny your request to make a recommendation for conditional liberty because you do not meet one of the essential requisites, being in the third grade of penal treatment.'

The denial of conditional liberty on these grounds explains nothing, since the prison council is responsible for the transfer of prisoners from one grade to another. It is clear, then, that we are faced with an administrative trick ... which the authorities are using as a pretext for violating the law and depriving prisoners of what the most respected experts in penal law have defined as a subjective right of the prisoner: Conditional Liberty.

#### 2. Remission of Sentence Through Work

With regard to the right of remission of sentences through work, the situation of the Segovia political prisoners is no more favourable. The Prison Administration and the *Patronato de Nuestra Senora de la Merced*, presided over by the Minister of Justice, are depriving them of this right - with the excuse that their sentences are classified as 'preventive detention', or by the arbitrary imposition of sanctions, or by applying the criterion of 'recidivism', in open defiance of the rules currently in force. Examples of remission time lost by political prisoners in Segovia will testify to the seriousness of the situation which we are denouncing; here are the details:

(out of the 27 prisoners listed, the following are adopted by Amnesty groups): Jose SANDOVAL Moris - has served 7 years 10 months; has not earned remission for 5 years, 10 months.

Jesus MARTINEZ Velasco - has served 7 years 10 months; has not earned remission for 5 years, 10 months.

Luis Antonio GIL Lopez - has served 7 years 10 months; has not earned remission for 5 years 10 months.

Victor Diaz CARDIEL Gonzales - has served 6 years 10 months; has not earned remission for 2 years 10 months

Paulino GARCIA Moya - has served 5 years 10 months; has not earned remission for 3 years 7 months.

Luis PEREZ Lara - sentenced to 13 years 1 day; has now served 4 years 10 months; has not earned remission for 3 years 8 months.

Antonio MONTOYA Perez - has served 7 years 10 months; has not earned remission for 3 years 10 months

Manuel SANCHEZ Marin - has served 4 years 10 months; has not earned remission for 3 years

Manuel MORALES Macias - sentenced to 12 years; has served 3 years 6 months; has not earned remission 3 years 4 months

Segundo MARTIN Cantalejo - has served 4 years 3 months; has not earned remission 4 years 1 month.

Jesus REDONDO Abuin - sentenced to 11 years; has served 3 years 6 months; has never been allowed to earn remission.

Twenty-seven prisoners have been deprived of a total of 80 years and 9 months' remission of sentences through work. Since two days work means one day less in prison, this amounts to an additional sentence for the twenty-seven prisoners of 42 years, 4 months and 15 days.

ADDENNIY 2 At the end of March 1973, 352 Basque priests elaborated a document about conditions in Spanish prisons and a series and a se ditions in Spanish prisons and sent it, certified, to the Bishops and Auxiliary Bisho; of Pamplona, Vitoria, Bilbao, San Sebastian and Bayonne (the Basque diocese) as well as the Vatican Secretary of State and the International Commission of Justice and Peace in Rome. We reproduce it here, in translation, because - from a much closer perspective than our own - it parallels Amnesty International's concern with respect to political prisoners in Spain.

Translation into English by Amnesty International

## Basque Priests Consider the Situation of Political Prisoners

#### Introduction

As Basque priests, we are constantly faced in our pastoral work with people's anguish over the treatment being received by their relatives - children, brothers, sisters, etc. - held in prisons throughout Spain for political offences.

In our view, the Basque political prisoners' intolerable conditions are due to the Spanish penal system. This system is applied not only to Basque political prisoners, but to all Spanish prisoners, be they political or criminal offenders.

We realise that the Spanish penal system is based on the political system, and that it is the latter we must examine and assess, trying at the same time to create a more equitable one. But the political prisoners' situation is urgent, and so we shall, for the moment concentrate on it.

We know how difficult it is to be certain how government institutions work. The authorities who are concerned to maintain the status quo are, at the same time, able to conceal information that might undermine their power. Because we cannot examine the situation in detail, we run an inevitable risk; but we are prepared to do so, as we are convinced that only by risking mistakes can we avoid the mistake of refusing to confront painful facts. Anyone wanting to tell the truth is on shaky ground. Yet this in itself makes it still more urgent that people should reveal the facts, even though their testimony is rejected.

We do not want to be guilty of indifference and ignore those who are injured and abused.

We would rather not deserve the rebuke given to those who failed to visit prisoners and mitigate their suffering (Mathew 25, 43).

We believe that the Church is genuinely the Church of the poor as Christ intended, not just when it helps the weak, but particularly when it shares their weakness, thus lending them a voice with which to proclaim man's liberation.

We want to be a critical voice, responsible and consistent with our faith; free of political ideology, yet with that vision of man which gives us confidence. Thus it will be man himself - not the state, ideology or vested interests - who makes the laws which determine the functions of political and social institutions.

It does not matter if the Government tries to suppress the voice of the Church - even when the state describes itself as 'confessional'. The strength of the spirit must confront the power of the sword in order to testify to the truth.

With this vision of man, which gives us faith, and this belief in the dignity and basic rights of the individual, we have considered the situation of political prisoners in Spain and reached the following conclusions:-

### 1. The Prisoner is a Human Being

Although this is obvious, it needs to be stated so that none of us - the Government, officials, society, citizens - forgets; so that the fact that he is a prisoner, thought to deserve punishment, does not allow us to overlook the dignity which as a human being he still possesses, in particular so that recognition of this dignity is reflected in his prison conditions.

A prisoner is someone deprived by society of his liberty. He should not be someone who has completely disappeared, whose fate is unknown, whose situation people know nothing about. There should be guarantees that a sentence, whether imposed on a criminal or a political prisoner, is not simply a letter of marque allowing brutal oppression and degrading treatment.

Imprisonment should not make sone one so dependent that his personality is destroyed. Society and social responsibility do not end at the prison gate, but are to be found wherever people are.

It is inhuman, outrageously wicked, even illegal, to add to the suffering a prisoner is already experiencing through his loss of freedom. There is no justification for hatred - even towards those condemned by the public for social crimes; nor should the Government take away the self-respect of those it considers its enemies. Even the Government must uphold prisoners' basic human rights.

This applies no less to those condemned to death who have been pardoned.

#### 2. The Prisoner's Legal Position

If the Government recognised people's right to their self-respect it would be forced to compromise; for this would mean it had to allow its prisoners - including political prisoners - those rights that are basic to personality survival. This would amount to saying that a prisoner's legal status must be recognised and guaranteed, which would be difficult given the peculiar situation prisoners are in, and still more so if they are political prisoners.

Although the prison's Governing Council comprises Governor, Deputy Governor, Administrator, Teacher and Chaplain, power effectively lies almost exclusively with the Governor, from whose decisions there is no appeal. So it is he who imposes the prison way of life; and whether or not the prisoners' conditions are tolerable depends on his humanity and sense of justice. But who can be sure he has such qualities? People cannot simply trust the Government; they must have guarantees and controls. It is not enough to have a just legal status set out in writing - it must be implemented and enforceable, even in the face of indifference or hostility on the part of the prison authorities.

Above the Governor is the prison Inspection Service - but Inspectors too are part of the bureaucracy which deals with the prisoner. The Service is inadequate and inequitable, unsupervised as it is by the general public; and those who dare appeal to higher authorities suffer reprisals.

The administrative machinery is clumsy and dangerous, and the internal devices for controlling it, however carefully guarded, are inadequate. There must be outside control, ... the general public must be able to challenge Government actions, especially if a victim of state punishment has himself attacked the state, threatened its security and very basis. Such is the political prisoner. His legal position is particularly precarious, as events prove. He should be given special guarantees, for, as far as he is concerned, the Government is no impartial judge inspired solely by the spirit of truth, but itself takes part in the vicious sport of crushing him under the full weight of repressive government bureacracy.

We therefore consider political prisoners are treated unjustly. They are denied access to lawyers (after sentence has been passed) who could defend their rights and provide them with all legal means of protection, including, if need be, the weight of public opinion.

The interpretation given to existing legislation means that prisoners cannot claim the right to be defended by their own lawyers, hence communicate with them after their sentences have been confirmed. The lawyer's function should have been fulfilled during the trial; once the verdict has been reached, there should be no further need for defence counsel. But prisoners are obviously in an extraordinary position and need to be defended. Those punished for the crimes they have been accused of need assurances that the authorities will not unjustly overstep the mark or act too harshly over the infliction of the punishment. The Government itself cannot act as defence; the general public should do this, or a member of the general public: someone who does not belong to the state's penal apparatus, who, when necessary, is in a position to take proceedings against the Government in the name of justice. There must be guarantees that a prisoner can be defended even against the penal authorities.

Only by this means can the political prisoners' conditions be exposed - and even the Government would benefit from this. Prisons would cease to be dark holes into which prisoners vanish. There would be a guarantee, instead of mere blind faith, that the Government would not crush its political opponents.

#### . Prisoners' Rights

For a prisoner, protected by his official legal status, to remain human, there must, in the first place, be physical regulations to ensure that his health - even his life is not endangered. Only some such regulations are incorporated in the law. And people should be aware of the prisoners' intolerable conditions. It is hard to believe that the Government is really concerned about the general well-being when those in its care, deprived of the normal protection of society, live in such vile conditions.

a) Food

According to the Prison Regulations, 'Prisoners' food must be adequate to keep an

adult physcially fit. Meals must therefore contain enough calories to maintain normal health and energy.' (Article 224). Some political prisoners complain that the food is inedible and insufficient, and that instead of calories they get indigestible, often rancid lumps of lard.

b) The Cells

It is important to remember that some political prisoners stay in their cells from 10 to 20 hours a day. Most cells are extremely small. None is heated, even though many prisons are in areas where the climate is harsh. Sometimes the cell temperature is 18 degrees below zero..

Conditions are unhygienic: There is little water and no showers, but plenty of rats and bed bugs. The buildings and equipment are so anitquated, that it is impossible to maintain adequate standards of hygiene, which proves that the authorities are not interested in having gaols fit for human habitation, but only in having places of confinement for dangerous social outcasts.

Usually, the cells contain a 40 watt light bulb 3 metres above the ground, and a 50 by 35 centimetre window at the same height. The cells are not just meant to be bedrooms - prisoners also live in them, but in conditions which are excessively harsh

and infinitely more punishing than the mere fact of imprisonment.

c) Medical Attention and Sanitary Facilities. Regulations about medical care and sanitary facilities are exacting and humane. 'The prison doctor is directly responsible for the sanitary conditions of the establishment .... to safeguard the prisoners' physical and mental heatlh, the doctor should have an assistant directly responsible to him, and prisoners may be treated by a dentist if necessary.... the doctor must submit a report to the Governor whenever he thinks a prisoner's physical or mental health requires his transfer to another more appropriate establishment.' (Prison Regulations, Art. 184-197).

There are many other legal provisions to protect the health of the prisoners; but the latter complain that sanitary facilities are, on the whole, extremely deficient; that there are no regular medical examinations; that unqualified personnel work in the dispensary and infirmary; that, in the large prisons, the doctors' daily visits to between 500 and 700 people are, by any standards, too brief to be any use; that they themselves have to pay for any treatment by the dentist or occulist; that transfers to the Prison Hospital or to Provincial Hospitals for essential operations are sometimes made too late, or requests for transfer get delayed and occasionally are not granted.

d) Corporal Punishment

The law states that there is to be no ill-treatment, and only in exceptional cases may the prison guards use sufficient force to keep order. (Prison Regulations, Art. 104.

Nevertheless, in Puerto de Santa Maria Prison (Cadiz), the inmates are periodically bound hand and foot, then beaten. A political prisoner was brutally attacked and beaten by several guards, on the orders of the Deputy Governor, because he demanded a hearing by the Prison Commission before being put in solitary confinement. The Prison Regulations forbid beatings or any corporal punishment, and require that, when punishment is to be inflicted, the prisoner concerned be first allowed to defend himself (Art. 114). But the Regulations are one thing, the actual behaviour of prison officials quite another.

e) Outside Communication

It is inhuman to keep prisoners totally cut off from the outside world, especially from their families. Various forms of communication are allowed by law. Visits can be arranged if authorised in advance by the Governor, 'who should allow this privilege only in the case of members of the prisoner's family' and 'only in exceptional cases .... may he permit communication with other trustworthy people.' (Art.

In practice, only close relatives may visit political prisoners, who are allowed a weekly visit lasting 20 to 30 minutes. The long distances families have to travel to reach a particular prison (anything from 258 to 1086 kilometres) make it in fact very difficult for them to exercise their visiting right. Distance, expense, time spent travelling, all make visiting a burden for working people who have to earn a living; so possibilities of communication - one of life's basic ingredients - are reduced to vanishing point. In this way too the political prisoner's personality is destroyed.

Sometimes, a guard sitting in the passage between the two wire grills separating the prisoner from his visitor notes down the details of the conversation in a little book. The grills are so thick that the prisoner's relatives cannot even tell whether he is clean-shaven. According to Regulations Art. 85, 'if the prisoner and his visitor do not speak Spanish they may talk in their own language'; yet even when this rule applies, if they talk Basque their conversation is automatically interrupted -

although some can only speak that language.

To keep in touch with the ousdie world, prisoners also need books and newspapers. Regulations Art. 126 states that 'outside books may be received in the prison after being censored by the Chaplain and Teacher in charge of the Library' and that 'in general, magazines, and newspapers are not allowed .... unless expressly authorised by the General Prison Administration.'

In reality there is very strict censorship, particularly of books on economics and social and political theory, even though allowed to circulate freely outside. All newspapers are censored, and occasionally chopped up into scraps. Thus the prisoner is deprived of all links with the outside world. He merely exists, and perhaps does some work, but he has no political or social life. In the case of political prisoners, this amounts to destroying the personality - something the Government has no right to do, and was not part of the prisoner's sentence.

#### f) The Infliction of Punishment

Arbitrary punishment is one of the most flagrant forms of disrespect towards a person. It transforms him into an object to be handled at will by whoever happens to be in a position of power at a given moment. It is not merely unjust punishment which is seriously damaging; most damaging of all are the psychological consequences of being at the mercy of an official who metes out punishment as and when he pleases, whether or not it is deserved. The toughest people can break down under continuous capricious punishment, which erodes self-respect.

The punishment for serious prison offences is '21 to 40 days' confinement in punishment cells' (Regulations, Art. 113). This involves complete isolation, no exercise in the prison yard, no food except what the prison provides, no visits or letters from relatives. In such cases, the Prison Governor authorises the punishments, including solitary confinement. The punishment rarely lasts less than 40 days, usually 80 to 100, the law notwithstanding. Because they went on hunger strike, some prisoners were punished in this way from December 1971 till June 1972. The violence to which they were subjected even included forcible feeding through rubber tubes which injured their pharynxes.

#### 4. The Re-educative and Reforming Nature of the Penal System

For a prisoner to maintain his self-respect, he should not be abused and treated capriciously while he is in gaol; and certain minimum standards must be maintained if he is to retain his individuality. This is true even when the purpose of the prison sentence is purely punitive.

The Spanish penal system tries to go further. It actually attempts re-education and reform. Article 1 of the Prison Regulations solemnly states that 'the purpose of gaols is not merely the confinement of prisoners..... in accordance with their sentences within the bounds set by security requirements, but also and chiefly their reform.' There are quite frequent references to the reforming, even regenerating aims of the penal system.

### a) Remission of Sentence through Work

Work is considered vital for any reform. Because it requires discipline and application, it helps to integrate the personality, hence is conducive to reform and regeneration. The importance accorded to it by the prison authorities is indicated by the fact that it is permitted, even compulsory, and furthermore is a way of achieving remission of sentence, remission being based on number of days worked.

The place of remission in the Spanish penal system, together with the requirements of Article 65 of the Prison Regulations, suggests that it is not a casual concession which may or may not be granted - it is an actual right: 'Prisoners can earn a day's remission of sentence for every two worked.' Remission must be authorised by the Patronate de Nuestra Senora de la Merced under the direction of the Minister of Justice

Two regulations, however, greatly restrict the right to remission; moreover, facilitate the arbitrary granting of this right. Recidivists who might have earned remission on previous sentences are ineligible for it; similarly those 'whose conduct in prison has not been good.' (Art. 65).

A significant number of political prisoners have been refused remission for the above reasons. This proves that the authorities are determined to apply the rules rigorously to this category of prisoner, despite theoretical promises that they will be treated in an unbiased, standard way and no differently because they have been sentenced for political reasons.

## b) Conditional Liberty

The system of conditional liberty is also conducive to character reformation. As set forth in Article 98 of the Prison Regulations, prisoners have the right to early

release on the fulfilment of certain conditions. But according to this rule, one of these conditions is that the prisoner can 'earn this privilege through impeccable conduct,' also must 'be in the third stage of his sentence.' This third stage is the period for 'social re-education of the prisoner and his preparation for life outside. An assiduous approach to work, good conduct and the completion of elementary and religious education are considered indications of steady progress.' (Prison Regulations

Conditional liberty means serving the final quarter of a sentence outside prison. By simply not accepting that political prisoners have reached the third quarter of their sentence, it is possible to deny them their conditional liberty. They are thus deprived of their rights: discriminated against for political reasons by the authoritarian government. Numerous political prisoners have experienced such discrimination. This form of injustice has and still does prolong their prison sentences.

#### c) Homogenous Grouping

'According to the aims and principles of penal theory' (Prison Regulations Art. 1) the reforming goal of Spanish prisons necessitates a system of homogenous prisoner groups - as described in the General Prison Administration circular of June 12, 1956. This system involves the formation of groups of 10 to 15 similar prisoners, members of each group to be treated alike. Evidently 'the Spanish Administration has decided that organising homogenous groups is the best way of individualising the system'.

(F. Bueno Arus, 'The Spanish Penal System', Publications Service of the Ministry of Justice, Madrid, 1967, p.28).

The ruling that prisoners be treated reasonably and helped to readapt to social life has special implications for political prisoners. It is obvious, considering their motives and the type of offence they are accused of, that they cannot be relegated to the level of ordinary prisoners. Whether or not their actual deeds were correct, their motives are quite different from the motives of criminal prisoners. They strive for justice and change in the status quo. They have ideals and try to achieve a new, more humane type of society. The magnitude of their cause is the measure of their dedication - they will risk losing their liberty, even their lives for it. Clearly, therefore, it is a mistake to treat them as though they were ordinary prisoners; and, as the authorities realise, it is valid to distinguish between different sorts of criminal prisoner.

The bad state of most of the old prison buildings may have prevented the development of a satisfactory prisoner classification programme (cf. Bueno Arus, OC, page 28). However, there is no justification for the deliberate dispersal of political prisoners and for dealing with them in the same way, as, for example, the homosexuals of Puerto de Santa Maria (Cadiz). The only possible explanation for such treatment is the authorities' determination to break their resistance and destroy their morale, or the realisation that they cannot, in fact, re-educate them. In any event, this is just another example of the sort of discrimination practiced quite arbitrarily by the Government against those who dare challenge its authority and attack the very basis of the state.

#### 5. General Conclusions

A number of conclusions can be drawn from this examination of the conditions of political prisoners in Spain, enabling us to make an overall evaluation of their situation. First and foremost, these prisoners are apparently treated no differently from ordinary prisoners; on the contrary, they are scattered among the rest of the prison population and live together with criminals. Clearly the Spanish Government knows how to deal with, or at any rate categorise, any sort of behaviour which is opposed to its own political ideology.

But political prisoners do not merely share with ordinary prisoners all the injustices of the Spanish penal system; they are also subject to discrimination and abusive treatment. The arbitrary enforcement of the Prison Regulations increases their degradation - it means that the institution which aims to reform and re-educate them is, in fact, constantly demoralising them.

By depriving political prisoners of most of their rights to remission and conditional liberty, the authorities obviously intend to be especially strict with them over the enforcement of their sentences. This follows from the sad fact that in Spain political offences are extremely broadly defined, because political rights are not recognised here as they are in a free society. Furthermore, political offences are very severely punished, trials being held in special courts - the Public Order Court and Military Tribunals.

These three combined factors in the treatment of political prisoners - unjust curtailment of political rights, severe punishment for political offences, strict enforcement of their sentences - illustrate the methods used by an autocratic regime.

Faced with this situation, we cannot remain silent - that would make us accomplices. We must rouse up men of good will who have not lost their political integrity, and tell them what is happening right beside them to their very own brothers. We intend to try once more to reveal the political system which is the root of all the trouble, so that people can deliberately challenge it.

We therefore appeal to you, our Bishops, immediately to approach the authorities and firmly demand the following:

- 1. That all prisoners be treated as human beings.
- 2. That, despite their lack of freedom, all prisoners be able to defend their rights, not only through official channels, but also via their own lawyers and through the weight of public opinion.
- 3. That, as soon as possible, political prisoner status be defined and its recognition guaranteed.
- 4. That, meanwhile, all arbitrary, unjust and demoralising treatment of political prisoners be abolished.
- 5. That all discrimination against political prisoners be ended.
- 6. That the true facts about prison conditions be publicised.



Miguel Pineda Rasco(Case history see page 21)

# APPENDIX

The following is a distillation of reports and letters, covering a period of time between 1970 and 1972, from five different Spanish prisons - Basauri, Ocana, Puerto de Santa Maria, Teruel and Zamora - which were sent to Amnesty International. Prisoners adopted by Amnesty have been held in four of the prisons dealt with, and there are political prisoners in all of them.

This summary, exactly as it is reproduced here, was submitted to the Spanish Ministry of Justice at the end of June 1972, together with a covering letter expressing Amnesty's concern about:

- 1. Lack of ventilation and heating, insufficient lighting, and overcrowiling in cells.
- 2. Poor quality and insufficient prison meals: lack of meat, fruit and vegetables.
- 3. Lack of adequate sanitary facilities: suitable toilets, showers, hot water, soap.
- 4. Inadequate medical facilities, lack of qualified medical personnel, and failure to provide special attention (examinations by medical specialists, hospital care, surgery) for prisoners who urgently need it.
- 5. Inadequate provisions for prisoners who wish to engage in educational, intellectual or cultural activities.
- 6. Limitations, which appear to be unduly severe, on prisoners' communications with their families, and, in the case of Puerto de Santa Maria Prison, with their lawvers.
- 7. Disciplinary actions, which again appear to be severe, taken against prisoners who make legitimate complaints against these and other conditions; or taken against prisoners to a degree far out of proportion to the breach of conduct they may have committed.

We urged 'as an initial, imperative measure, that the General Director (of Penal Institutions) undertake a thorough investigation of conditions at these five prisons and that every attention be given to improving them as soon as possible'. Several weeks later, we were told that 'The Minister of Justice (had) asked for a detailed, comprehensive report about the different points referred to in (our) letter (sanitary conditions, medical attention, cultural facilities, etc)' about which we would be informed.

To date, we have received no such report, and we can only assume that the information in our files is correct. We have no reason to believe that the conditions described here have changed substantially since June 1972.

#### BASAURI (Bilbao)

This is a preventive prison for un-tried prisoners, although some have been known to spend up to two years here awaiting trial. Most of the political prisoners are students.

#### **Living Quarters**

The cells measure 2 metres wide, 3.25 metres long and 4 metres high, and contain a sink, a toilet, a small table and 1 to 3 beds (depending on the number of prisoners confined to each cell). They are damp and cold. Light and ventilation is provided by one window of 40 by 20 centimetres which, because of its height, cannot be opened; and a second window, 15 by 15 centimetres, which opens onto another prison gallery. There is one 25 W light bulb, set into a hole in the ceiling.

- -- The prisoners may spend one hour a day in the prison library.
- There is a workshop; and a narrow yard, surrounded by high walls.

#### Food

— Meals are insufficient and poor; the food is sometimes spoiled. Vegetables are served one day a week; there is no fruit. Food brought in to the prisoners by their families is first broken up by the prison guards and has on occasion not been passed if the container was too large. Prisoners who forget to bring their spoons with them to the dining room are not permitted to eat.

#### Recreation and Study

- Only those prisoners who are officially matriculated at a school may study with text books. Many of the common prisoners are illiterate or do not have a primary education, but there has been no teacher at the prison since September 1970. The following books have been refused to political prisoners: an anthology of Antonio Machado's poetry; texts for the first year of political science and law; a text for the third year of telecommunications (the student in this case did have a certificate of matriculation); Basque language texts; a French grammar book; a Castillian grammar book. The following books were taken away from the prisoners after they had been authorised: Great Painters: Picasso; a book on sports.

#### Communications and Visits

— Prisoners may receive visits only from their parents, sisters and brothers; stepbrothers or step-sisters and aunts and uncles are excluded (even if the prisoners live with them) as are fiancees.

#### Health and Medical Facilities

- No soap is provided for cleaning the cells; plates and glasses in the dining room are washed only in water, and some have rusted. No measures are taken to prevent contagion from ill prisoners who have used common utensils.

- Prisoners may take one shower per week, but not every week. There is hot water enough for 5% of the political prisoners, since the deposit holds only 500 litres. The water in the cells is shut off from 9.30 pm to 7.30 am, which produces a strong smell from the toilets.

The equipment in the infirmary is old, and some of it is broken. A dentist visits the prison on the 10th day of each month, but makes no calls for emergencies. Mentally disturbed prisoners are held in individual cells but are given no treatment (the fact that the 3-man cells are usually reserved for political prisoners is said to be responsible for the breakdown of one of them, Jose Rovira Roig, in December 1970, because of the extremely close confinement).

#### **OCANA**

This is a 1st stage, or top security, prison for offenders between 21 and 25 years of age.

#### Living Quarters

The prisoners spend 18 hours a day in their cells. Each of the cells has a small window 2½ metres from the floor, and a 40W light bulb. There is a handbasin, and a hole in the floor beside the head of the bed serves as a toilet which must be flushed with water brought in from outside - if it is available (it was reported in 1970 that the prisoners had spent 6 months without water, but it is not known whether this situation in the cells continues).

— The periods of recreation (1½ hours daily, taken ½ hour at a time; Saturday afternoon; and all day Sunday) are spent in the prison yard, which offers no protection from the weather.

#### Food

- Prison meals are said to be inedible and often insect-infested. Parcels and tins brought in by the prisoners' families must be deposited in the canteen; prisoners are not allowed to have any food in their cells.

#### Recreation and Study

— The prisoners must study alone in their cells and are not permitted to consult each other. Many books sold legally in Spain are prohibited in the prison.

- The governor has refused to allow the political prisoners to give classes to the common prisoners.

- The only newspapers received by the prison are Ya (Catholic daily), Arriba (of ficial organ of the National Movement) and Marca (sports).

#### Communications and Visits

— The prisoners are separated from their families in the visiting room by two grills, one of them covered by a wire net, with a passage of 1 metre in between. Visits are supervised by 5 prison guards, 2 with the prisoner, 2 with the visitor, and 1 in the passage. One of the guards makes a note of the conversation and forbids any mention of non-personal matters.

- Correspondence is censored and sometimes does not arrive at all.

#### Discipline and Punishments

- Prisoners are often punished for little or no reason at all (examples cited are those of a prisoner who was singing in his cell because he expected a visit from his mother; another, who had had to lie down on his bed because he felt ill; and another, who had not, in the guard's opinion, made his bed carefully enough). Most punished prisoners are confined in isolation in the punishment cells, which are small, narrow, damp rooms with no toilet, ventilation or light. Political prisoners in 1971 were given 30 to 40 days in the punishment cells for having written a letter to the Madrid College of Lawyers protesting against prison conditions.

- When asked why the prisoners did not have access to the Prison Regulations, the governor in September 1970 answered that there were no more copies available.

#### Health and Medical Facilities

- There is one shower for the whole prison, which may be used for 8 hours each day. It was reported in 1972 that out of the 10 political prisoners held in Ocana, 9 were ill, among them, the following: Inaki Sarasketa Ibanez, in urgent need of surgical attention because of a stomach ailment and increasing curvature of the

spinal cord; Inaki Garcia Aramberri, with sinustitis; Juan Sarasola, suffering from nefritis and epileptic attacks; Francisco Jaka, with cystitis. All have been refused special medical care and transfer to a hospital.

Because of the lack of light in the cells, many prisoners have developed sight defects and need to be seen by an oculist.

#### PUERTO DE SANTA MARIA (Cadiz)

This is a 1st stage, or top security, prison for 'highly dangerous and unadaptable criminals'. Of the 600 prisoners held here, 6 are serving sentences for political offences and four of the latter are Basques. Many of the common prisoners are drug addicts, gamblers, alcoholics or homosexuals.

#### Living Quarters

- 4 of the political prisoners are held completely isolated from the others in 'security cells', reserved for those prisoners considered to be too dangerous to remain in the common wing.

#### Food

- Meals do not include meat or fruit.

#### Recreation and Study

- The prisoners confined in the security cells must study in a small cell, 2 metres by 2.40 metres, with a small window of 60 by 40 centimetres.
- Political prisoners in the common wing study in the primary school room while classes are being given.
   Prisoners held in security cells are excluded from participation in any kind of
- Prisoners held in security cells are excluded from participation in any kind of sport activity.

#### Communications and Visits

- Letters are censored, and the governor is said to keep on file all letters which do not meet with approval. Prisoners are allowed to write 4 letters per month. They may receive visits of 20 minutes each 3 times per month from members of their immediate family. 2 to 4 prison guards supervise the visits, and speaking the Basque language is not permitted.
- Prisoners (among them an Amnesty adoption case) have not been allowed to see their lawyers, and letters to their lawyers have been intercepted.

#### Discipline and Punishments

- There is a high incidence of violence among the common prisoners.
- Basque prisoners held in security cells are conducted to the dining and visiting rooms in silent single file and are often not allowed to speak to each other at the times when they are together.
- Prisoners who have committed breaches of conduct are sent to isolation in punishment cells for periods of not less than 40 days and usually 80 to 100 days. A prisoner adopted by Amnesty was confined in one of these cells for 80 days because he protested against the beating of a common prisoner; he was given no bed and had water dripping on his body part or all of the time. Political prisoners who went on hunger strike for 15 days in 1971 in protest against poor conditions were punished with 123 days in isolation cells. This period is followed by 2 to 5 months of 'disciplinary observation', during which prisoners are allowed to leave their cells for 1 hour in the morning and 1 hour in the afternoon.
- There are reports of prisoners having been tied by their feet and beaten.

#### Health and Medical Facilities

- All the political prisoners are said to be ill.
- Prisoners must pay for whatever dental and eye care they need, and they must buy their own vitamins.

## TERUEL

This is a 2nd stage, or intermediate, prison for offenders of under 21 years of age.

#### **Living Quarters**

- Prisoners spend the first 30 days after they arrive in 'observation cells', which have no sinks and are equipped with toilets which do not flush; two blankets are provided for protection against temperatures which can reach -40 degrees centigrade.

— It is reported that the cells are not heated, and that the governor, when the prisoners asked for an improvement, answered that he did not know how much money the General Prison Administration had set aside for this purpose and so could do nothing.

Recreation and St údy

— No magazines and few books are allowed to the prisoners. Newspapers received

by the prison are Arriba (official organ of the National Movement), Ya, (Catholic daily), and Luha (local paper), and these are sometimes censored.

- The prisoners are not permitted to study together.

#### Discipline and Punishments

- Prisoners do not have access to copies of the Prison Regulations.

There are complaints of violence on the part of the guards; and some prisoners who have committed breaches of conduct have been beaten with rubber sticks. Others are sent to isolation in punishment cells.

#### ZAMORA

This prison is divided into two completely separate sections: One is for common prisoners, and the other is the penal institution in Spain especially designated for priests.

#### Living Quarters

— All the priests share one long dormitory, which contains 30 beds arranged close together in two rows. Ventilation is provided by small rectangular windows made of translucent glass bricks. There are 2 urinaries, 2 toilets, (without doors) and 4 sinks, with hot water once a week. The dormitory is kept locked between 7 am, when the priests get up, and 10 pm when they go to bed. The door is made of iron bars and provides no protection from the excessive heat and cold, characteristic of summer and winter in Zamora. The dormitory has no heating.

— The priests eat in their own dining room. There is no hot water for washing plates and spoons, and these are the only utensils allowed.

- They spend most of the day in a study room (they do not have access to the prison library), which is equipped with one table and a television.

The prison yard (to which they can go 2 times per day) measures approximately 20 by 10 metres and is surrounded by a 5-metre high wall. It has no vegetation whatsoever and, because of the location of the prison buildings, is shielded from the sun from October to March.

#### Food

— With small variations, breakfast consists of a hot drink resembling coffee; lunch, potatoes (or chick peas, lentils or beans) with a small piece of fried fish; supper, watered soup and another piece of fish. Each prisoner receives one piece of bread per day. Meat is served 2 or 3 times a year. Prisoners' families may bring them tinned food, cold meats or fruit, but nothing may be heated in the prison and no prepared dishes are allowed. All food brought into the prison is examined and cut up by the guards.

#### Recreation and Study

The reading material provided in the study room is elementary and out-of-date. No theological or sociological books are permitted. The priests may only read the newspapers Ya (Madrid Catholic daily), Marca (sports), and El Correo de Zamora, and these often arrive late with articles cut out. Television viewing is limited to children's programmes and the evening news.

#### Communications and Visits

The priests are allowed to write 1 letter per week, (2, if they subscribe to the official prison publication 'Redencion') to immediate relatives. Correspondence is censored. They may be visited by members of their family, but not by uncles, aunts, cousins, parishioners or friends. Visits last half an hour (many families must travel distances of up to 400 kilometres to reach the prison). The priests and their visitors are separated in the visiting room by two wire grills, with a space of 1½ metres in between; and 1 or 2 guards always supervise the conversation, sometimes interrupting when the Basque language is spoken. Both the prisoner and his visitor must remain standing throughout the visits.

#### Discipline and Punishments

The priests are under constant surveillance by the prison guards, and their clothing and belongings are searched every other day. Punishment for breaches of conduct may be suspension of letters and visits (this has happened to some of the priests 5 or 6 times a year for 20 days at a time), and isolation in the punishment cells. These contain no chairs or tables, and the bed is a straw mat on the floor; no smoking, writing or singing is allowed, and the prisoner may not leave the cell for the duration of the punishment (which has, on occasions, been as long as 43 days).

#### Health

- Zamora Prison is situated on the banks of the Duero River and is blanketed by a dense fog for most of the year. In addition, the chimney of the prison kitchen

stands on one of the walls of the yard, and covers the yard and the corridors of the prison with soot and ash (the chimney, less than 10 metres high, is lower than the adjoining building, so much of the smoke remains in the yard or the priests' living quarters). According to a document written by the prisoners' families, on 'Indications of Atmospheric Pollution in Zamora Prison', .... 'this smoke can ... be extremely dangerous for the health of the prisoner. As the prison is close to the Duero, the pollution is made more serious by the fog and high degree of humidity in the air, which increases the solubility of the gasses and produces a greater concentration of the toxic compounds.' The document calls attention to the possible high concentration of carbon dioxide, carbon monoxide and sulphur dioxide, and appeals for an investigation into its effects on the prisoners, which could include conjunctivitis, bronchitis, loss of memory, general weakness and even death.



Narciso Julian Sanz(Case history see page 20)

Thirty four years after the end of the Spanish Civil War, Spain remains a country where all political parties other than General Franco's National Movement are banned, where strikes and independent trade unions are illegal, and where a man may be jailed for expressing his political beliefs.

Many hundreds of men — and women — are today in Spanish prisons (several thousand more await trial) because they belong to clandestine political organisations, because they actively defend the workers' right to free trade unions, because they openly criticise the Government and its policies, or beacuse they oppose the systematic suppression of their culture and language. They include socialists, communists, libertaians, Basque and Catalan nationalists, students, workers, pritests, lawyers, university professors and writers. Some 300 are Jehovah's witnesses and pacifists, serving recurring sentences of up to 12 years for refusing to do military service on religious or ethical grounds.

This Amnesty International report traces the history of political imprisonment in Spain since the Civil War, details the legal machinery—used by the regime to jail its opponents, and — with a number of typical cases — explains what happens to political prisoners from the moment of their first arrest to the time when some, old and ill, are finally released after a life spent behind bars.