

Report of an
Amnesty
International
mission
to Spain



July 1975

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I Introduction

In July 1975 Amnesty International sent a mission to Spain to investigate allegations of torture reported to have occurred during the three-month state of exception (*estado de excepción*) in the Basque provinces of Vizcaya and Guipúzcoa, which was in effect from 25 April to 25 July 1975. A state of exception in Spain is one step short of martial law, being a temporary abrogation by the government of six civil rights theoretically guaranteed in the *Fuero de los Españoles* (Charter of the Spanish People): the rights to free expression, to privacy of the mail, of assembly and association, *habeas corpus*, freedom of movement and residence, and freedom from arbitrary house search. The most serious of these abrogations in creating the pre-conditions for torture is the suspension of the right of *habeas corpus*. Under the *Fuero de los Españoles*, a detainee has the right to be brought before judicial authorities within 72 hours of detention. But under a state of exception, a detainee can be held for an indefinite period without access to a lawyer and without appeal to the courts. With the detainee beyond the help of lawyers, the courts or anyone else, the police are at liberty to do with him or her what they wish.

The declaration of the state of exception should be seen within the changing context of governmental policy with regard to the expression of political opposition in Spain. The poles of this policy are suggested by the February 1974 and the June 1975 speeches by Prime Minister Don Carlos Arias Navarro. The first speech pledged support for a limited degree of popular participation in an evolving democratic process. This pledge of liberalization, had it been effectuated, should have led, for example, to the introduction of a new law of association, thus possibly allowing the formation of independent political parties.

The promises of the February 1974 speech have not taken tangible form, however, and in June 1975 the Prime Minister explicitly reversed his earlier statement of intentions. Among other things the second speech promises (1) a harsh law to combat communism in any manifestation; (2) national unity, to be maintained in the face of separatist movements; (3) national continuity, to be guaranteed by the re-constitution of the monarchy; and (4) peace, to be protected by the government and the security forces.

Governmental policy toward the Basque provinces is further complicated by

the strong nationalism of a people who have a distinct language and culture. The Basques exercised for generations a limited autonomy within Spain in the form of administrative privileges conceded in special charters (*fueros*) by Spanish monarchs, but largely withdrawn during the nineteenth century. Vestiges of these administrative privileges survived into the twentieth century, but they were abolished in Vizcaya and Guipúzcoa in 1937 after the provinces capitulated to General Francisco Franco, whose "New Spain" brought them under the centralized rule of the administration in Madrid.

The Spanish government's official reason for declaring the state of exception in Vizcaya and Guipúzcoa was the violence initiated by the Basque separatist organization ETA (*Euzkadi Ta Azkatasuna*, "Basque Homeland and Liberty"), specifically the assassinations of four policemen in the four months preceding the state of exception. However, the security forces' retaliatory violence against the general Basque population, including the use of torture, was widespread and indiscriminate. The torture and other acts of official intimidation were aimed not only at dismembering ETA but also at intimidating other Basques from support for ETA and from any aspirations to Basque autonomy.

Documentation of this zealous repression and of the abuses of human rights during the state of exception is provided in this report in the hope that the Spanish government will hold its own security forces accountable for violations of Spanish law and of the *Fuero de los Españoles*.

The Allegations

During the state of exception, Amnesty International received numerous allegations made by both Basque and independent sources (lawyers, journalists and others familiar with the Basque provinces) that the following violations of human rights had occurred and that these violations were both deliberate and frequent:

1. Massive detentions, altogether numbering in the thousands, usually followed by interrogation, often by maltreatment and in most cases by release within a few days, thus indicating the probable innocence of those released and leaving room in the police stations and Civil Guard barracks for new detainees.
2. Illegal transfers of detainees from the two Basque provinces not under the state of exception (Alava and Navarra) into Vizcaya and Guipúzcoa, thus in effect extending the geographical area under the state of exception.
3. Abuses of the judicial process either by re-arrest on the executive authority of the provincial civil governor following release by a magistrate, or by removal of detainees from police stations or Civil Guard barracks directly to prison.
4. Widespread, systematic and severe torture of detainees in all four Basque provinces, but particularly in the two provinces under the state of exception.

The Mission

In order to investigate these allegations independently, Amnesty International sent a delegate, the American attorney Thomas Jones of Washington, DC, to visit Madrid and the Spanish Basque region from 19 until 29 July 1975 and make appropriate inquiries. While in Madrid, Mr Jones was joined by Dr Burkhard Wisser, professor of philosophy in Karlsruhe, Federal Republic of Germany, for

discussions at the Spanish Ministry of Justice and with the Papal Nuncio and the Dean of the *Junta de Gobierno* of the Spanish Lawyers' Association.

In addition, Amnesty International instructed the mission to seek clarification of the Spanish government's intentions regarding the renewed use of the death penalty both in civil and in political cases throughout Spain. (A copy of Amnesty International's appeal to the Spanish government against the use of the death penalty is appended to this report.)

Amnesty International sought the assistance of the Spanish government in investigating these allegations. On 11 July and again on 16 July, Secretary General Martin Ennals formally requested permission from the Spanish Ministry of Justice for an Amnesty International delegate to visit specific prisoners in Basauri Prison, near Bilbao (Vizcaya province), whose names were known to Amnesty International and who had allegedly been tortured prior to their transfer to Basauri Prison. On 21 July, Mr Jones and Dr Wisser visited the Ministry of Justice in Madrid to repeat this petition and to present a list of names of 32 prisoners whom they requested to interview. They expressed their willingness to extend their stay in Spain, if necessary, beyond the termination of the state of exception so that the interviews could be arranged. They also offered to select a smaller number from the list for interviews. Nevertheless, on 23 July, the Ministry of Justice officially refused the request.

Amnesty International regrets that its delegates were not given the opportunity to test some of the most damaging allegations of torture that had been made against the Spanish security forces. Permission to visit even a few of the prisoners in Basauri Prison would have been a sign that the Spanish authorities were willing to have these allegations fairly tested, and either verified or discredited, by an impartial, independent observer. No such sign has been forthcoming.

II *The Nature of the Evidence*

The Amnesty International mission collected evidence (1) from lawyers whose clients were tortured and who visited their clients in prison and took testimony from them, (2) from witnesses to the torture of others, and (3) from victims of torture who have been released from custody and (in some cases) whose scars were still visible. More than 50 lawyers and victims and witnesses of torture were heard. Cases cited in this report are indicated as indirect testimony if they came from interviews with those in the first category. Otherwise the cases came from the direct testimony of witnesses and victims of torture.

The weight of this report rests on personal interviews with 15 victims of torture - a comparatively high number, in view of the prevailing fear of reprisals in the Basque region - and on the corroborating testimonies of those who had witnessed torture and who gave direct testimony about an additional 30 cases. The ages of these particular 45 victims of torture ranged from 17 to 72, many of them being in their twenties. Among these 45, there were 11 women and 34 men. The majority came from the working class.

It has been necessary to maintain the anonymity of all victims and witnesses of torture throughout the report in order to protect them not only from possible re-arrest, but also against reprisals by the extreme right-wing vigilantes who commit acts of violence with apparent impunity against Basques. (See page 11 for an analysis of the relationship between these vigilantes and the police.) All of the witnesses and victims of torture who met with the mission expressed the desire to remain anonymous, and most desired that the details of their stories be treated with the greatest caution in order to prevent their identification. As a consequence, this report sometimes omits parts of testimonies, such as exact dates on which a person was arrested, the town in which the person resides, or other very specific details that would readily identify the speaker. (Amnesty International possesses the full, unabridged testimonies.) Although some details have been omitted, no facts have been altered and no details changed. Amnesty International regrets that circumstances dictate this policy of anonymity.

III The Findings

Despite the refusal by the Spanish government to allow access to some of the prisoners who allegedly suffered the worst torture, the Amnesty International mission obtained conclusive evidence of the following:

1. Massive detentions did take place in Vizcaya and Guipúzcoa provinces, although Amnesty International is unable to give verifiable figures for the number of persons detained during the state of exception or the number of prisoners still in custody. Certainly the unofficial estimates of several thousand detentions given by lawyers appear to be more realistic than the official figures given on 27 May 1975, when the government announced that 189 people had been detained in Guipúzcoa and Vizcaya provinces since 25 April, of whom 90 had subsequently been released.

Amnesty International has received reliable information that upwards of a thousand people were detained in each of the two provinces, that no fewer than 300 were held longer than 72 hours in Vizcaya and that no fewer than 200 were held longer than 72 hours in Guipúzcoa. All of the victims interviewed by the mission had been held longer than 72 hours by the security forces. It is also likely that at the close of the state of exception there were about 120 prisoners in Basauri Prison (Vizcaya province), which is twice its normal capacity. Amnesty International is not able at this time to make a reliable estimate of the prisoners still in Martutene Prison (Guipúzcoa province) or in the Civil Guard barracks and police stations of the two provinces, or of the number of prisoners transferred to prisons outside the Basque region.

2. Five of the torture victims interviewed by the mission had been illegally transferred into Guipúzcoa or Vizcaya for the purpose of circumventing the Spanish citizen's right to be brought before a magistrate within 72 hours of detention. In each case, the individual was tortured in the province where arrested and then transferred into one of the two provinces affected by the state of exception before the expiration of the 72-hour limit.

3. During the state of exception provincial civil governors ordered (a) the re-arrest of detainees after their release by a magistrate and (b) the removal of detainees from police stations and Civil Guard barracks directly to prison. In effect, this form of administrative detention circumvented the judicial processes,

on the one hand arbitrarily nullifying the decisions of magistrates and on the other hand preventing the presentation of complaints of torture before judges.

4. The mission received personal and direct evidence of the torture of 45 Basque detainees. The mission further received credible and convincing evidence that torture was systematically used against a *minimum* of 250 Basque detainees (and possibly against many more who were not known to the contacts interviewed by the mission) in the provinces of Vizcaya and Guipúzcoa during the state of exception and was used frequently in Alava and Navarra provinces. Every victim interviewed by the mission was subjected to at least one session of interrogation and torture a day: some were tortured during as many as five sessions a day. Sessions lasted from half an hour to an estimated six hours. One victim told of 30 sessions of torture in 21 days of continuous imprisonment.

5. The three major police forces participated or collaborated in the torture of Basques: the *Policía Armada* (regular armed police), whose jurisdiction is the urban areas; the paramilitary *Guardia Civil*, with jurisdiction in rural, coastal and frontier regions; and the *Brigada Politico-Social*, the special security police.

6. The methods of torture included severe and systematic beatings with a variety of contusive weapons, falanga (beating on the soles of the feet), burning with cigarettes, near drowning by being submerged in water while suspended upside-down, enforced sleeplessness, and forms of psychological stress, including mock executions, sexual threats, threats to relatives and the technique known as *el cerrojo* (the frequent fastening and unfastening of bolts on the cell doors in order to keep prisoners in perpetual fear that the torturers have returned).

7. The reasons for the torture were (a) to extract information and confessions that would enable the security forces to crush or severely weaken ETA, whose members had murdered four policemen in the four months prior to the state of exception, and (b) to intimidate the general Basque population into submission to the central administration and to the non-Basque security forces. Partly because the security forces are not Basques, generally do not speak Basque and therefore have no natural roots among the local population, they cannot readily rely on ordinary techniques of gathering information. Consequently they turned during the state of exception to the use of massive detentions and systematic torture in order to elicit the required information and confessions from those few knowledgeable detainees in their custody. When detainees had no knowledge to bare, the emphasis lay on intimidation of the tortured detainees and in turn of the general Basque population - intimidation that became anarchic vengeance provoked by two further assassinations of policemen in early May.

IV The Methods of Torture

The most common form of torture used by the Spanish security forces against Basques has been severe and systematic beatings all over the body and with a variety of contusive weapons:

1. "I was thrown to the floor, kicked, clubbed. They had a wooden rod about a meter long, and a club wrapped in rubber with metal bands around it."
2. "I was in the police station a total of some 20 days. I was beaten with an electric cable, about a meter long, with two centimeters of copper surrounded by rubber or plastic. I was beaten worst on the shoulders, the back of the neck and the chest."
3. "Blows were falling from all sides, some from fists, others from what looked like a whip, except that it had a ball or knob on the end, about 40-45 centimeters long."
4. "They beat my husband in the Civil Guards barracks in Guipúzcoa with hard rubber tubes used for butane gas. He was bruised from the buttocks to his feet." (This incident occurred several months prior to the state of exception.)
5. "I lost consciousness twice and they woke me by throwing water on my head. On the last day, they...beat me with a crowbar."
6. "They took me to the police station in [name of town omitted], where they handcuffed my hands under my knees and beat me for some four hours with wooden poles and flexible wooden clubs with knots in them made from a holly tree. They also whipped me."
7. Indirect testimony from a lawyer about a client: "I could see marks, bruises on both arms. He had bruise lines caused by blows from what he described as iron, steel and wooden bars, as well as clubs both round and square. They also used a cane made out of bone - apparently it was very handsome."
8. "They began to beat me with an iron bar wrapped in rubber, about 60 centimeters long. They hit me in the back, in the chest, over the heart. It's a blow that shakes you to the core."

Falanga (beating of the soles of the feet, causing pain to the skeletal and nervous systems) was common, as were beatings on the sexual organs, the shins, back, stomach, kidneys and head. One prisoner had his head thrust against the wall by his interrogators some 20 times until his forehead was cut and "swollen like an

egg". The feet and buttocks of others were black with bruises. One witness referred again and again to a particular victim he saw as looking like a cadaver, "his face yellow like a dead man".

It is striking among many of these cases that there was a combination of beating and painfully protracted calisthenics. "When one group of police tired of beating me, another would come in. They made me do deep knee bends for one and a half hours while they were beating me," said one man. A young woman said that she had been beaten while forced to do hundreds - perhaps 500 - deep knee bends: "It leaves no marks, but it hurts horribly." "The second interrogation lasted about two hours," said another man, "and I was beaten in the same way with the same whips by five or six policemen. This time my hands were handcuffed under my legs, and while squatting, I was made to walk as they beat me." This "duck-walk" (*el pato*) was interpreted by one victim of it as an effort to "minimize" and humiliate him (*para minimizarle*).

Women received especially humiliating treatment from their male interrogators. One witness told the mission of a girl whom the policemen stripped naked and whose pubic hair they shaved. The same witness (a man) saw cigarette burns on the arms of another girl who told him that she also bore scars from cigarette burns on her breasts. (One of the policemen assassinated was known as *El Pitillo*, "the cigarette butt".) The women torture victims were so sadistically beaten and humiliated that it was not easy for them to come forward to meet the Amnesty International mission. Some did, however, and they told of sexual threats, including sterilization, of being made to walk naked in the police station, of being manhandled in front of male friends to force information from the men and of insults that are (above all within the mores of Spanish society) so degrading as to be a form of psychological torture.

The torturers at the central police station in Bilbao had the services of a doctor (or someone they called a doctor). He examined torture victims, patched them up, bandaged their ribs or recommended hospitalization. His chief role was to advise the police on how long it would take for the torture victims' bruises to disappear: "After the first week they left me alone. On [date omitted] and again on [date omitted] I was examined by a man dressed like a doctor. The police asked him how long it would take for the bruises and marks to go away, so they could tell how long to keep me at the police station. In my case the 'doctor' said 10 days."

Many of the victims of torture who were interviewed referred to the technique of *el bueno*, that is, the good policeman, who acts as the prisoner's friend. His function in the ordeal is to regret the need for brutality, offer favours to the prisoner, and pretend to oppose the resumption of torture—all in an effort to win from the prisoner the desired information or confession. Comment on the predatory cynicism of such ploys is unnecessary. Psychological stress was intensified by mock executions (several of those interviewed had had pistols placed to their heads and the trigger pulled on a blank cartridge), by threats of rape or torture of relatives, by sounds of screaming from other torture victims, and, most damaging of all, by the technique known to the prisoners as *cerrojos*—the frequent fastening and unfastening of bolts on the cell doors that kept prisoners awake for days and almost constantly in fear that another session of torture would soon begin. (For further direct testimony from witnesses and victims of torture, see Appendix A)

V Intimidation

a.) Official Intimidation

"Their only credentials were machine-guns and pistols," commented one released prisoner who had been seized and assaulted at home by the police during the night. Under a state of exception the security forces do not need a warrant or any authority but their own to enter a house, search the premises and detain the inhabitants. This pattern of violent entry was commonplace during the state of exception.

Virtually no member of the security forces in the Basque provinces is a Basque. Few policemen understand the Basque language, and in order to gather information about opposition activities they rely either on a not particularly effective network of local Basque informers, or else, as was true during the state of exception, on massive arrests, random brutality and excessive repression, including torture.

The ubiquitous nature of the repression is illustrated by the random checks in the streets and other public places of identity cards, which all Spanish citizens must carry. One example of the intimidation engendered by such procedures will suffice. When the police entered a public bar in Bilbao to check identity cards, the commanding officer blew his whistle to announce the raid. An elderly Basque man responded by shouting in Basque a cry common to the bull ring. The commanding officer knocked the man to the floor and viciously kicked him. Those people whose identity cards bore Spanish names were allowed to leave. Those whose cards bore Basque names were forced to the floor.

Intimidation also took the form of action against local parish priests. The police confiscated at least two sermons that were published in June and detained priests accused of writing or distributing them. In addition, fines of up to 50,000 pesetas (about £400) were levied against priests who alluded in their sermons to repression under the state of exception, and often the community or parish paid the fine. (Similar fines are increasingly used against priests throughout Spain.) Repetitive fines imposed economic pressure on the priests and their parishioners, and if they were collectively unable to pay this form of tribute, the parish priest remained in custody.

b.) Vigilante Intimidation

Extreme rightwing vigilantes, usually identified as members of the *Guerrilleros del Cristo Rey* hitherto operating mostly in Madrid, have recently become active in the Basque region as well. Amnesty International has no evidence that the vigilantes have caused any deaths in the Basque region. But they have undertaken an effective campaign of terror against relatives and sympathizers of Basque separatists, as well as against priests and lawyers who have dared to defend civil rights. They have dragged a defence lawyer from his house and beaten him; assaulted whole families who have relatives in ETA; beaten a 72-year-old priest in his parish library outside Bilbao; and bombed, burned or machine-gunned dozens of houses, offices and commercial establishments owned or operated by Basques with either separatist or civil rights aspirations.

The Amnesty International mission was not asked to investigate the activities of the vigilantes or the alleged links between them and the police. Nevertheless, some second-hand information was forthcoming which Amnesty International regards as reliable.

The clearest evidence of police complicity in the vigilante activities is the fact that not one investigation or arrest is known to have taken place following vigilantes' attacks on persons or property. Furthermore, as several Basques stated to the mission, the vigilantes (whether from the area or outside the area) would need the help of the police or their informants to pinpoint their targets.

Virtually every person interviewed by the mission expressed fears of retaliation by the police or the vigilantes - fears that would seem to be fully justified. The Amnesty International delegate saw the machine-gunned windows of lawyers' offices. In the early morning of 28 July, a public bar in Vizcaya was bombed and nearby a priest's car was machine-gunned and bombed, thus indicating that the termination of the state of exception has not put an end to the vigilantes' activities. The *Guardia Civil* had forceably cleared the streets of the town and had detained the owners of the bar that was bombed on charges that they had allowed "subversive songs"—i.e. songs in the Basque language—to be sung in the bar.

VI Torture Under Spanish Law

An official at the Ministry of Justice in Madrid stated unequivocally to Amnesty International's representatives that torture is unacceptable to decent men, that it is immoral and degrading to both victim and torturer, and that torture is both prohibited and punishable as a criminal offence under Spanish law.

In the preliminary section of the *Fuero de los Españoles* (Law of 17 July 1945), the Spanish state "declares, as the governing principle of its actions, respect for the dignity, integrity and freedom of the individual..." In the *Enjuiciamiento Criminal* (Law of Criminal Prosecution), Article 389 states that the witness shall not be asked deceitful or rhetorical questions, nor shall any coercion, deceit, promise or contrivance be used to force or induce the witness to make a particular declaration. Article 393 reads as follows: "When the interrogation of the accused is of prolonged duration or the amount of questioning is such that the accused loses the composure of mind necessary to answer the remaining questions, the interrogation should be brought to an end to allow the accused time to rest and recuperate. The duration of the interrogation must always be indicated in the statement of the accused." Article 394 states that "the examining magistrate who infringes the rules laid down in the above article or those in Article 389 will be disciplined except in cases where he is to be disciplined for greater offences." It is thus evident that under Spanish law the use of maltreatment or coercion by the authorities is a criminal act.

Spanish law provides that allegations of torture by police during interrogation can be brought before the courts in a number of ways: by the victim when he is brought before the *juez de instrucción*, under normal circumstances within 72 hours of his arrest; by a member of his family making appeal to the judge for an investigation; by any Spanish citizen, using the procedure known as a *llamada por acción popular*, a kind of citizen's complaint; and, finally, by the courts and public prosecutors themselves when evidence of torture comes to their attention.

In any of these cases, it is incumbent upon the competent tribunal to investigate the allegations with the help of a forensic doctor's report on the medical condition of the victim. Where there are signs of torture, the courts have the power to hold an investigative hearing and to recommend action to the public prosecutor. It should be noted that a *llamada por acción popular* case has been

brought by 49 lawyers on behalf of the well-known priest, Father Anastasio Erquicia.*

In spite of this laudable theoretical spectrum of legal safeguards against torture and coercion, these legal guarantees were nullified in practice by police action and judicial inertia during the state of exception. Moreover, there is strong evidence, as a number of Spanish lawyers told the Amnesty International mission, that torture is used systematically whenever the individual does not immediately confess voluntarily. At the root of this systematic violation of basic human rights is an inquisitorial legal system that accepts confession as fundamental proof and in which torture is frequently used to obtain that confession.

Furthermore, a number of Spanish lawyers stated that, apart from the massive, indiscriminate arrests and torture, a state of exception is not altogether exceptional. This is because cases regarded by the police as serious are usually subject to military jurisdiction, under which the right of *habeas corpus* within 72 hours of detention does not apply, and because of judicial reluctance to interfere with the police. Thus, for example, the law guarantees judicial scrutiny of police requests for search warrants. Nevertheless, according to Spanish lawyers, in the Basque provinces judicial approval of such requests is virtually automatic in every case. In other words, even under normal circumstances, any Spanish citizen in the Basque provinces may, at the discretion of the security forces, find machine-gun carrying policemen searching his house at 3 am.

It is certainly true that during the state of exception the judiciary did not rigorously oversee police activities or adequately defend detainees' rights under Spanish law. Magistrates either failed altogether to investigate allegations of torture lodged with them by detainees or their lawyers, or if they initiated inquiries, they did so only after enough time had elapsed for bruises and scars to disappear.

*The Spanish periodical *Cambio 16*, in the 18 August 1975 issue, published an account of the case of Father Erquicia after his release from hospital. Torture is not explicitly mentioned, but the enigmatic quality of the article that results from the obvious omissions about torture indicates the limits of what can be said on the subject in Spain: "I stayed in the police station for 24 hours: what I can confirm is that I entered it in good health and that I had until then never suffered from any serious illness, my state of health always having been excellent. That day, at three o'clock in the morning, I began feeling dizzy. I was in the cell with four other persons, and I asked for medical attendance. These were hours of great tension; the preceding night the policeman Llorente had been murdered."

"Tasio" lost his sense of time and remembers only his arrival at the hospital. According to the four doctors who attended him, he was brought [to the hospital]...in a very serious condition because of a kidney injury, which required dialysis treatment for a period of 19 days."

VII Conclusion and Recommendations

Amnesty International respectfully appeals to the responsible Spanish authorities to investigate Amnesty International's findings of the abuses of legal procedures and of the massive and systematic use of torture in the Basque provinces during the state of exception, with a view toward compensating and rehabilitating the victims of torture and toward bringing to justice those who may be proven guilty of these abuses and those senior police officers who had the responsibility to prevent them. The urgency of this appeal is increased by the persistent reports of torture elsewhere in Spain. (See Appendix B.)

The massive number of detentions, the illegal transfers of detainees into Vizcaya and Guipúzcoa, the disregard for the proper judicial procedures, the violent entry into private houses, the apparent cooperation between the security forces and vigilante groups, and above all, the deliberate and systematic use of torture—these abuses violate accepted international, including European, legal standards. Indeed, if Spain were a member of the Council of Europe, these manifest violations of the European Convention on Human Rights would be sufficient to bring a case against the Spanish authorities before the Commission of Human Rights and the Court of Human Rights.

Unfortunately, the new decree law approved by the Spanish Cabinet on 22 August 1975 increases the likelihood that such abuses as occurred in the Basque provinces during the state of exception will become more frequent throughout Spain. Under the new law the security forces throughout the country will be allowed to hold a detainee for 10 days (rather than a limit of 72 hours, as stipulated by the *Fuero de los Españoles*) without bringing him or her before a magistrate. Warrants will not be needed for house searches. In addition, newspapers face penalties of up to three-months' closure if they "defend" communism, anarchism or separatism. Most severe of all is the new *mandatory* death penalty for all those who are convicted of killing a member of the security forces. *The new law creates for a period of two years a situation that is in many respects a national state of exception: it abrogates for all Spanish citizens some of the fundamental guarantees of the Fuero de los Españoles.*

In accord with the findings of this report (see above, Section III), Amnesty

International respectfully makes the following recommendations to the responsible Spanish authorities:

1. In that the torture of detainees almost always occurred prior to charges being made against them, if charges were made at all, Amnesty International recommends that the protection offered by the United Nations Standard Minimum Rules for the Treatment of Prisoners and the *Enjuiciamiento Criminal* be made effective for all persons deprived of their freedom, whether charged or not.
2. In that when torture occurred, it occurred almost always during the unlimited period between the moment of detention and the detainee's appearance before a judicial authority, Amnesty International recommends the prompt appearance of a detainee, and in any case not later than 24 hours from the time of detention, before a judicial authority, even during periods of emergency.
3. In that provincial civil governors, using a form of administrative detention, committed detainees to prison who never appeared before a judicial authority, Amnesty International recommends the immediate release of any detainee not brought before a judicial officer within 24 hours of detention.
4. In that provincial civil governors committed detainees to prison despite the previous release of these detainees by judicial officers, Amnesty International recommends that detention beyond 24 hours be solely on the order of a judicial officer.
5. In that torture occurred largely in the police stations and Civil Guard barracks during interrogation, Amnesty International recommends the removal of the detainee to custody independent from the investigating police force after he or she is brought before the competent judicial authority.
6. In that torture, threats and coercion were used during interrogation, Amnesty International recommends the inadmissibility in any proceedings of any statement by an arrested or detained person unless it was made voluntarily in the presence of his or her counsel and before a judicial authority.
7. In that prisoners from provinces not under the state of exception were illegally transferred into Vizcaya and Guipúzcoa, Amnesty International recommends that detainees should remain within the jurisdiction of the judiciary in the province where arrested until the competent judicial authority in that province has ordered (and only with good and sufficient cause) the detainee's transfer to custody in another province.
8. In that the agents of torture were members of the three major national police forces, Amnesty International recommends that the senior police officers of these security forces be held accountable for illegal actions committed by their forces during the state of exception.
9. Amnesty International also recommends that henceforth all members of the police and related agencies receive proper education and training in the principles described in the Universal Declaration of Human Rights.
10. In that several doctors, or individuals who were referred to as doctors, advised the police on the length of time required for detainees' bruises and

scars to disappear, Amnesty International recommends that the appropriate Spanish medical associations investigate the role of doctors in police stations, Civil Guard barracks and prisons, with a view toward disciplining those among their colleagues who participated in torture and with a view toward the enforcement of the concept of medical custody of a detainee or prisoner as long as direct supervision of his or her well-being is required.

11. In that numerous detainees incurred physical injuries during detention, many of them severe injuries, Amnesty International recommends that full medical documentation be kept on all detainees, especially on those captured in civil conflict, and in all cases that these documents be made available to lawyers and doctors of the prisoner's choice.
12. In that torture can have long-term physical and psychological effects on those who suffer it, Amnesty International recommends that the Spanish authorities provide for the financial compensation and medical rehabilitation of all victims of torture in Spain.
13. In that the death penalty is a violation of the right to life and of the right not to be subjected to cruel, inhuman or degrading treatment or punishment, Amnesty International recommends the immediate abolition of the death penalty in Spain, even when imposed under the conditions stipulated in the decree law of August 1975.
14. Amnesty International further recommends and respectfully urges unwavering adherence to the letter and spirit of the *Fuero de los Españoles*, which guarantees "respect for the dignity, integrity and freedom of the individual".

Appendix A

Testimonies of Torture

The following examples of torture are selected from testimony presented to the Amnesty International mission:

1. "After 19 days of torture and detention he was not recognized by his father because his face was so distorted." (Indirect testimony.)
2. "He broke his leg trying to escape, and they tortured him by twisting the broken leg. He said the pain was horrible." (Indirect testimony.)
3. "I was arrested in the middle of the night on [date omitted] when the police came to where I was sleeping. The police burst in and handcuffed us. When we arrived at the police station, they punched one of us in the stomach immediately. A policeman said, 'Bring this one in for me.' We were each taken into a different small room.

"There were six policemen in the room when I entered. They immediately began to beat me and question me at the same time.

"I was in the police station a total of some 20 days. I was beaten with an electric cable...both of my arms were covered with bruises from trying to protect myself, and my upper body was covered with bruises. It was black. When one group of police tired of beating me, another would come in.

"There is terrible fear. After the beating stopped, I was left 10 days in the police station so that the marks would disappear and so that I could not make a statement to the judge or the newspaper."

4. "The police came to my house in the dark hours of the morning. Eight came in with machine-guns and pistols. As soon as I arrived at the police station, eight policemen began to beat me. For two hours continuously I was beaten in the face, on the head, on the body, all over my back—my buttocks were black and blue. I was beaten with electric cables and with fists. I was handcuffed in a squatting position with my hands under my legs and made to walk until I fell over. All the time they were beating me and kicking and stomping me whenever I fell. They pulled me back and forth by my hair. They made no specific accusation.

"They left me alone for two hours, then they gave me another beating—the same as the first one. They left me then until about two o'clock the next

morning, when they woke me and punched me a number of times in my already black eye."

5. "The police came in the middle of the night, at least four of them with machine-guns, others with pistols. The minute we arrived [at the police station], a large group of police began to hurl insults at us, calling us murderers, etc. We were searched and they took all of our belongings. They did not hit me at first. They told me I had to tell them everything I knew about the infrastructure of ETA. They left me alone for half an hour. There were cries and screams of other prisoners, and I was terrified.

"An hour later I was called. There were five policemen in the room. I was seated. They said, 'Talk.' When I replied that I did not know anything, a large policeman hit me in the back. They handcuffed my hands under my legs, squatting, and I was made to walk until I fell. When I fell they would kick me. This lasted about a quarter of an hour. Then I was taken back to the cell.

"There were what seemed like a hundred people jammed into the cells and corridors, so it took time for them to get back to you. Three hours later they came back for me. One said: 'Have you thought it over?' I answered that I knew nothing. They said that an accident could happen to one of my relatives. They said that nothing mattered to them, not even Franco. They said they would take me to a cliff near here, La Galea, shoot me and throw my body into the sea. Then they hit me, about 20 times in my stomach and kidneys with their fists. They did not hit me in the face. Then they sent me back to the cell, telling me to think it over.

"In the third interrogation it was the same. When I said I did not know anything, they began to beat me, but this time with an iron bar wrapped in rubber, about 60 centimeters long. They threatened to put electric wires on my testicles, but they did not do it.

"The beatings went on for seven days and nights. They put a revolver between my eyes and pulled the trigger. After the eighth day, they left me alone.

"The conditions in the prison were inhuman. Nearly 20 days with the same clothes, without washing, without a towel or a handkerchief. They gave you only a mouthful of food in the afternoon and another at night. At first I was not hungry, because of the fear, but later we were all hungry. There was no toothpaste, and many days not even toilet paper.

"The cells were disgustingly filthy. Revolting. They gave you one filthy, repugnant sheet for three of you. We had to sleep on that floor—not even animals would sleep there.

"In the end, after [x number of days], they let me go without making an accusation.

"I would rather die than go through that again. Many feel that way."

6. "I was arrested by a large group of *Guardia Civil* and police with dogs and pistols and machine-guns, who came to my house at 4 am. I was taken to the police station in [name of town omitted], where I was beaten by some 14 policemen. They beat me so badly that I don't know with what or how or how long, because one hour seemed like five. Blows came at me from everywhere at once. After two days I signed, and they did not beat me after that."

7. "I was arrested on [date omitted] by 10 or 12 police who came to my house in the early hours of the morning. I was taken to the police station where they hit me in the stomach and kicked me in the testicles and the face. I was left in the cell for a number of days. The atmosphere of terror while waiting is indescribable. I did not know why I was there, and there were screams day and night. The *cerrojos* were a terrible torture in themselves.

"On the fourth day they came for me, and for the next three days there were two sessions a day of beatings, each lasting an hour or more. I was beaten with a wooden club, a pole and with fists. Much of the time I was seated and they clubbed me in the leg below the knee, on my shoulders, back and chest. But there were times when you could not feel the pain.

"The cells were filthy, covered with all sorts of garbage. They fed us at 4 pm and at 8 pm, a watery soup, a little sausage and bread, nothing more. Then they left us for 20 hours with no food."

8. "On the night of [date omitted] I was stopped on a street in [name of town omitted] by a police patrol in order to check my identity card, which was in order. They questioned me and took me to the police station.

"As soon as I entered the police station they began to hit me. There were about 20 police, and, without explanation, one of them hit me across the right side of the face with a whip, while three or four others were punching me with fists in the back, the kidneys, the stomach, the face. This went on for about a quarter of an hour. When blood began to flow from my nose, they stopped. They took me down to the cells and left me in the passageway without putting me into a cell.

"I was there about an hour. Then they took me upstairs one floor to a small room, where eight policemen were waiting. They said I was in ETA and that I should tell them all I knew. They knocked me to the floor, kicked me in the ribs and stomped on me. That interrogation lasted about an hour and a half.

"Then they took me back to the corridor again. After about two hours they took me up to the same room where the same eight police were waiting. They were members of the *Brigada Politico-Social*. I could identify nearly all of them. The same things happened as before—all kinds of insults, kicks in the testicles, etc.

"They then took me to the corridor again, and with the cells full of prisoners—I would guess around 80 men—they gave me a seat in the corridor and left me until the next afternoon. They would not let me sleep though. The pain grows and grows and you bear it as best you can.

"The third interrogation began about 7 pm. This time they took me to a room on the same floor as the cells. There were six police this time, two from before and four new ones. They beat me as before, for two or two and a half hours, but this time they had a rectangular bar about one and a half meters long, which they broke hitting me across the back. They then took me back to the corridor, where they left me, again seated for an hour or an hour and a half. It was incredible. You saw people covered with bruises, their clothes torn from blows, their faces and bodies swollen and you heard cries and screams almost continuously. I saw what must have been 50 people with marks of torture.

"Then there was another interrogation in the same place, with the same six policemen, the same as before, lasting two hours or more, then back to the cells.

"On [date omitted] they called me for the fifth interrogation, in the same room, six or seven police, all different from the ones before. They beat for three hours with the same clubs, the flexible one and the one with the ball on the end. Then back to the cell. They called me back twice more that day, twice on the next day and twice on the day after that. Then it ended until [x number of] days later.

"Until [date omitted] it was horrible. Then very little happened for [x number of] days. During that time we were moved to a larger cell with more than 10 of us. I saw men in the cell who were black from the neck to the bottoms of their feet. On [date omitted] the doctor came and examined every one briefly...The doctor had large rough hands—not the hands of a doctor, I thought.

"I think it was almost worse in the [x number of] days when they weren't beating me because of the total terror—waiting to be called at any minute.

"Then about [date omitted] they came for me again and I was tortured twice a day until [date omitted], when they took my declaration. I went to the judge and then to Basauri." (This victim was interrogated and tortured on approximately 30 different occasions.)

9. "They took him out an hour before eating and brought him back what I would guess to be six or seven hours later. All his body was marked, his back, his feet, ankles. He looked like a cadaver. The only thing he said was that if he had a pistol he would kill himself. They took him again two hours later—he looked half-dead. Two policemen dragged him to another interrogation. They had him an hour or so, then brought him back: his lower lip was cut, his face yellow like a dead man, his body covered with bruises, his clothes torn to shreds.

"They took him again two hours later, dragged him away by his arms, but he was unconscious, and when he collapsed near the door they brought him back to the cell and brought in a cot to lay him on.

"Earlier, he had been sick, and we helped him to go to the toilet. There was blood flowing from his rectum."

10. "On [date omitted] I was arrested and taken to the *Gobierno Civil* in San Sebastian. The cells were full. I spent [x number of] days there, and I went through some 18 interrogations. I was hit or beaten by the police in approximately 12 of the interrogations. During the last four days there were three interrogations each day, ranging from three-quarters of an hour up to five or six hours.

"The day after the killing of a member of the *Guardia Civil* was the worst. There were six or seven police, and one of them said, 'Are you going to sing for us?' Then blows came from all sides, with fists and boots. They hit me all over, including my testicles, until my lip was cut open and began to bleed. Then the worst was over."

"We could hear, at times, terrible screams of torture from the room above."

Appendix B

Torture Elsewhere in Spain

The urgency of Amnesty International's appeal to the Spanish authorities to investigate the findings of this report is underlined by the fact that torture of political detainees in Spain is limited neither temporarily to the recent state of exception nor geographically to the Basque territory. In this report, occasional mention has been made of torture that occurred in the Basque region prior to the state of exception. In addition, cases known to Amnesty International during the months preceding the state of exception include torture in Ciudad Real, Alicante, Madrid, Barcelona and elsewhere. For example, nine people, among them several prominent Spanish intellectuals, were arrested following a bomb explosion on 13 September 1974 that killed 11 people at a Madrid cafe frequented by the Spanish security police. One of the accused was held incommunicado for 110 days and others for almost four weeks, during which several of them were severely tortured. The date of the court martial for this group has still not been announced.

In February and March 1975, the Barcelona Bar Association protested the torture of prisoners recently arrested in that city. Three men were arrested in mid-January under charges of being members of the Catalan separatist organization FAC (*Front d'Alliberament Catala*), and a few days later had to be interned in hospitals as a result of torture. One showed signs of a fractured skull, and another entered hospital close to death, having suffered cigarette burns, electric shocks, cuts with razor blades in the tongue and beatings of his genital organs and kidneys. He was released without charge but was taken to a military hospital under guard in mid-March. His kidneys are severely damaged, and according to a medical report in the possession of Amnesty International, this victim of torture will have to rely for survival on an artificial kidney dialysis machine. The Bar Association also brought attention to yet another incident: that of a worker arrested by the police in Barcelona on 29 January 1975 in connection with trade union activities, who was subjected to forced standing, kicking and beatings with guns.

Recent cases outside the Basque territory include four women and 10 men who were arrested in mid-July 1975 by the security police in Madrid. They

are accused of being members of FRAP (*Frente Revolucionario Antifascista y Patriota*), a violent group that split from the Communist Party of Spain. They were held incommunicado for 20 days, after which they were allowed to see only their lawyers. Their case has been put under military jurisdiction, and the military judge has forbidden the examination of these prisoners by any medical doctor despite the established practice that all prisoners are medically examined upon entering prison. It is feared that these prisoners are in such bad physical condition after torture that officials wish to prevent their being seen by anyone, even a prison doctor.

On 30 July 1975 in Barcelona, there was a confrontation between the security forces and ETA. Two ETA members were arrested: Pedro Ignacio Pérez Beotegui (alias "Wilson", a well-known ETA leader long sought by the authorities) and Juan Paredes Manot. As a result of information obtained from these men under torture, further arrests were made. They included three nuns who are accused of having sheltered Señor Beotegui several days before the arrest, and two men and a nurse who are also charged with having helped the two ETA suspects. Two other ETA suspects were arrested in Madrid on 30 July following another shooting incident: José María Lara Fernández and Félix Eguía Inchaurreaga. A third, Jesús Mujica Ayestarán, was reported by the police first to have committed suicide and then to have died during the shooting incident.

Torture and incommunicado detention are reported to be routinely applied to detainees that allegedly belong to certain underground political organizations (eg, ETA, FRAP, FAC). Torture is reported to include drugs and, recently in Barcelona, the use of a butane gas blowlamp. The flame is extinguished, and the red-hot metal nozzle is applied to the skin, usually on the thigh.

Despite persistent pressure from national and international public opinion, prosecution by the Spanish authorities of those accused of torture is extremely rare. Amnesty International knows of only four occasions in recent history on which torture charges brought against individual policemen were actually upheld by the courts: two police inspectors were sentenced to 15 days' imprisonment each in San Sebastián for having struck a lawyer as they arrested him (March 1970); another two inspectors were given three-day sentences in Santander for having beaten workers detained the previous February (June 1970); one police officer was condemned to six days' imprisonment in Bilbao for having tortured two students (March 1972); and two policemen were given very short terms of imprisonment for ill-treatment of a prisoner in Mataró, near Barcelona (1974).

Appendix C

The Death Penalty in Spain

The death penalty has existed in Spain since the civil war. The incorporation of the Law of Banditry and Terrorism into the Code of Military Justice in November 1971 makes the death penalty applicable, under Article 294 of the code, to the crime of "military rebellion" when it results in death or injury.

The death sentence has been imposed infrequently in recent years. A notable exception was the 1969/70 Burgos court martial, when six Basque nationalists among the 16 defendants were condemned to death for their alleged involvement in the killing of the San Sebastián chief of police in 1968. The wave of international and national protests, in addition to pressure from within the army, led to commutation of the death sentences.

For the first time since the execution of the communist Julian Grimau in 1963, the death sentence was carried out on a prisoner in 1974. He was Salvador Puig Antich, a young anarchist accused of killing a policeman. He was garrotted. But General Franco, as Head of State, commuted the death penalty passed on a defendant in another case, a policeman convicted of killing his superior officer.

Recently the problem of the death penalty has become very serious: about 40 death sentences have either been demanded or pronounced (although to Amnesty International's knowledge none has been executed) in the last year, against common law criminals as well as against political prisoners. On 22 August 1975, the Spanish cabinet, presided over by General Franco, approved a new decree law that provides for a mandatory death penalty for the killing of a member of the security forces. The new law specifies that all trials concerning such cases will be under military jurisdiction, and judges will have no choice but to condemn those found guilty to death.

Amnesty International works for the release of men and women imprisoned for their beliefs, colour, ethnic origin or religion, provided they have neither used nor advocated violence, but Amnesty International also opposes capital

punishment in *all* cases and without reservation.

On 21 July 1975, the Amnesty International mission presented the following appeal to the Spanish Ministry of Justice on behalf of all those known to Amnesty International by name who stand in danger of execution:

AMNESTY INTERNATIONAL APPEALS TO THE SPANISH GOVERNMENT FOR CLEMENCY TOWARD THE FOLLOWING PRISONERS AND ALL OTHER PRISONERS AGAINST WHOM THE DEATH PENALTY HAS BEEN PRONOUNCED OR FOR WHOM THE DEATH PENALTY HAS BEEN DEMANDED:

1. Eloy Massó Madrigal
2. José San Julián Jiménez
3. Miguel Angel Marcos Prieto
4. Ali Abadelan Allouch
5. Ayad Abdelkader Latranch
6. Salvador Martínez Muñoz
7. Antonio Tomás Carrién
8. Enrique Vidal Ríos
9. José Luis Cervato Roig
10. J. Antonio Garmendia Artola
11. Angel Otaegui Etcheverría

AMNESTY INTERNATIONAL FURTHER APPEALS FOR CLEMENCY TOWARD THE FOLLOWING PRISONERS WHOSE TRIALS HAVE NOT YET BEGUN:

1. Eva Forest Tarrat de Sastre
2. Maria Luz Fernández Alvarez
3. Antonio Durán Velazco
4. Manuel Blanco Chivetes
5. José Humberto Alonso
6. Fernando Sierra Marco
7. Pablo Mayoral Rueda
8. Vladimir Fernández Tovar

AMNESTY INTERNATIONAL PUBLICATIONS

Amnesty International Report on Torture

A survey of torture allegations in more than 60 countries. Issued in conjunction with Amnesty International's worldwide Campaign for the Abolition of Torture. 246 pages. £1.50 (US \$3.75). Second (updated) edition. January 1975.

Report of an Amnesty International Mission to Israel and the Syrian Arab Republic to Investigate Allegations of Ill-Treatment and Torture.

The report of the commission which visited Israel and Syria, 10-24 October 1974 to investigate allegations arising from the October 1973 war. 34 pages; 50 pence (US \$1.25). April 1975.

A Chronicle of Current Events, numbers 28-31

The journal for the defence of human rights in the USSR records the arrests, searches, interrogations, detentions, trials, and confinement in labour camps and psychiatric hospitals of intellectual, religious and national dissenters in the Soviet Union. Translated from the original Russian *samizdat* and published in one volume, illustrated, 168 pages. 95 pence (US \$2.50). May 1975.

Earlier editions of this unique publication are still available. Numbers 17, 18, 21, 24, 27, published singly: 65 pence (US \$1.60) each. Double volumes 19-20, 22-23, 25-26: 85 pence (US \$2.10).

Chile: an Amnesty International Report

A detailed study of the fateful year that followed the bloody military coup that overthrew the Allende government in September 1973. It documents the political imprisonment, executions, disappearances, systematic use of torture and abuse of legal procedures by the junta. 80 pages in English, 88 pages in Spanish, both illustrated. 85 pence (US \$2.10). September 1974.

Political Prisoners in South Vietnam

A report on the 100,000 or more civilians detained by the then Saigon Government with reference to political prisoners also held by the PRG. 36 pages, illustrated. 35 pence (US \$0.90). July 1973

Report on Allegations of Torture in Brazil

The other face of Brazil's much-vaunted "economic miracle": a report on how torture has become an institutional instrument of terror and repression in the country. 108 pages. £1.20 (US \$3.00). First published September 1972. Second edition reset with revised preface and commentary. July 1974.

Report of an Inquiry into Allegations of Ill-Treatment in Northern Ireland

An Amnesty International investigation into 30 cases of alleged brutality by the security forces against detainees. 48 pages. 75 pence (US \$1.85). March 1972. Reprinted July 1974.

Political Imprisonment in Spain

This report, which traces the history of post-civil war political imprisonment in Spain, describes the legal machinery used to repress opponents of the government and shows the brutality and discrimination suffered by them. 32 pages. Illustrated English edition: 50 pence (US \$1.25), Spanish edition, without illustrations: 30 pence (US \$0.75). August 1973.

Australia \$0.70 (recommended)
Canada \$0.90
New Zealand \$0.70
United States \$0.90
United Kingdom 35 pence

WOODGATE, LIZ EYORA

