



AMNESTY

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DETAILS

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Francó's persecution of the Basques

by Ernest Davies

NATIONALISM within the Basque provinces of Spain has a long history, but it was not until the middle '30's that the Republican Government granted them autonomy. A Basque Government was formed during the Civil War, but with the Republican defeat by Franco a few months later it had to flee the country and has since maintained its continuity in exile in Paris. Because of the vigorous opposition that the Basques have maintained to the Franco régime both within and outside Spain, their persecution has probably been greater than that of any other section of the Spanish people. Despite this, these courageous and principled Catholics have maintained a resistance to the Franco régime.

The latest example of Franco's determination to oppress the Basque Nationalists came on the 18th anniversary of his insurrection last July, when celebrations were to take place in Burgos—where Franco assumed power—and other Basque cities. On the eve of the celebrations, damage to a railway line between Bilbao and San Sebastian was discovered, and on July 18 itself two Spanish flags were publicly burned, and other incidents occurred. A few days later, some hundred Basque Nationalists were rounded up, held in prison, and a special police squad sent from Madrid to interrogate them. Convincing evidence is available that a number of the prisoners were cruelly tortured, one Julian Madariga had three ribs broken, and it is not surprising that in such conditions declarations were signed admitting participation in the incidents. Subsequently, 28 were taken to Madrid for trial.

On behalf of the Spanish Democrats Defence Fund, which is sponsored by the Labour Party and Trade Unions, I attended the first trial of seven of the accused on October 28. They were arraigned before the military court, accused of military rebellion, and their offences included attempted derailment of a train carrying ex-combatants to the celebrations, burning of Spanish flags, planting miniature Basque flags on the mountainside, clandestine propaganda and other subversive activities. I have attended other trials in Spain in a similar capacity, but I was never more shocked than on this occasion at the harsh treatment meted out to the prisoners and their relatives and at the cruel sentences imposed.

(Continued on back page)

Ernest Davies is former Under Secretary of State for Foreign Affairs, Labour Member for Enfield, 1945-59.

TWENTY YEARS IN JAIL FOR MASARYK'S AIDE

Since 1949, Dr. Antonin Sum, the private secretary of Jan Masaryk, has been in prison in Czechoslovakia. His offence, for which he was given a 20-year prison sentence was officially "spying"—but as our correspondent, Bruce Warland, suggests, Dr. Sum's only crime seems to be his opinions.

* * *

DR. ANTONIN SUM, a graduate of Charles University in Prague, comes from a diplomatic family. His father, Frank Sum, was Czech minister in San Francisco, New York, and Paris before World War II. During the war, Antonin Sum was a member of the R III resistance group led by General Luza, and after the war he joined the Czech Nationalist Party. During the 1946 elections, from which the Communists emerged as the largest party, Dr. Sum campaigned for his own party. Despite this he was picked by Klement Gottwald, the Communist premier, to be Protocol Secretary in the Prime Minister's office.

Gottwald had good reason to choose him. Dr. Sum's name was very well known, and although still in his early thirties he was perfectly fitted for the job, knowing all the diplomatic world and speaking several languages. Gottwald himself admitted that he needed somebody who could tell him "who to meet and what to wear."

* * *

But other Communists in the Prime Minister's office were insistent that Dr. Sum should join the party. Refusing to do so, he left, and became private secretary to Jan Masaryk, who was a friend of his late father. He held this position until Masaryk's death in March 1948, when, still refusing to join the Communist Party, he was employed in a minor position in the Czech Foreign Ministry.

In the autumn of 1949 he was arrested and later tried with the so-called Horak Group. Milada Horakova, a former woman Nationalist M.P., had tried to revive the Nationalist Party, which, like all the other parties at that time, was under Communist control. There is little doubt that Dr. Sum was in touch with Milada Horakova (the only woman to be executed for political reasons), but he was definitely not a spy, the charge for which he was convicted and sentenced to 20 years' hard labour.

The real reason for his conviction was his knowledge of the death of Jan Masaryk. When it became known, at 4 a.m. on March 10, 1949, that Masaryk had jumped to his death from the second floor of the Foreign Ministry, Dr. Sum had gone to Masaryk's private flat, which was also in the Foreign Ministry,

and to which he had a key. Although the political police were already in the flat, Dr. Sum managed to read the last entries in Masaryk's diary. He memorised them and left.

At no time did Dr. Sum attempt to leave Czechoslovakia with this information, which would at this time have been very useful to Western Intelligence, who were completely unaware of the reason for Masaryk's death. This in itself would indicate that the charges of spying were unfounded.

In 1947, Dr. Sum had married the daughter of a well-known university professor, who herself holds a degree in philosophy. Because she has refused to divorce him, she is never able to hold a suitable job, and last year, although her health is poor, she was directed to work as a manual labourer in a brick factory. Dr. Sum's children, who were babies at the time of his arrest, are victimised at school. Dr. Sum has, in fact, offered his wife a divorce on several occasions, but she is a Catholic and will not consider it.

* * *

Since his trial in 1950 Dr. Sum has been employed in the uranium mines at Jachymov and Pribram. Although he is only 46, he is, after eleven years of imprisonment, a very sick man, with liver and kidney diseases as well as the beginnings of diabetes. Although he receives some kind of medical treatment, it is unlikely that he can survive the further nine years he still has to serve.

In prison and in the concentration camps, Dr. Sum's behaviour is admirable and he is always ready to help his friends. But although he does his work well, he can never satisfy the camp authorities, from whom he receives the worst possible treatment. Every Christmas and Easter he spends in solitary confinement. On several occasions during his imprisonment he has been taken back to Ruzyn, the dreaded prison of the Secret Police, just outside Prague. He still refuses to work for the authorities or to spy on comrades in jail, although he knows that if he did agree to this, he might be released.

* * *

Recently, after an argument with camp commander Kosulic at the uranium mine in Pribram, he was transferred to the fortress of Leopoldov in Slovakia. His only pleasures are the visits from his wife, who is allowed to see him once in three months but who has to go without most of the necessities of life in order to be able to afford the journey.

The question remains—will this Czech patriot die in prison, just because he has an idea of freedom that is unacceptable to the present Czech Government?

COMMENT

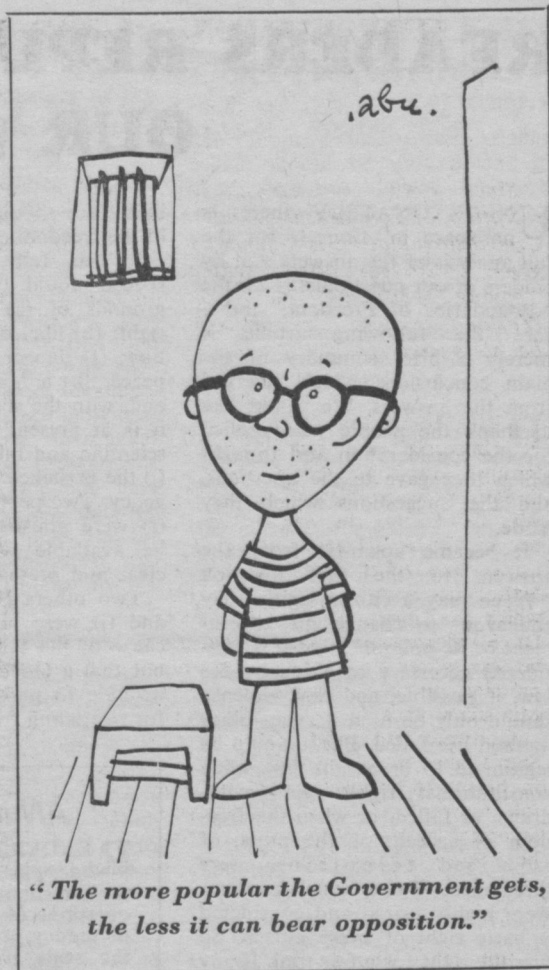
IN our last issue we carried details of the Amnesty recently granted by the Spanish Government. The Spanish judicial system under the present Government has made a regular practice of granting an amnesty every three or four years. A list of the dates of previous amnesties is revealing—18th July, 1947, 9th December, 1949, 1st May, 1952, 25th July, 1954, and 31st October, 1958. All these amnesties have been granted to celebrate some important event in the Roman Catholic Church. It would seem that the main purpose of these amnesties is to clear the overcrowded prisons of petty offenders, since their provisions have always provided a full pardon for sentences of up to six months, and usually for sentences up to two years, while longer terms have only scaled down.

It is worth pointing out that the latest amnesty does represent one substantial concession. All prisoners who have served more than 20 years in prison are to be immediately released. Previous amnesties have operated on the length of sentence, not on the number of years served. There is a considerable practical difference.

Many long-term prisoners in Spain are in fact released on licence several years before the end of their sentence; the benefit of the amnesty is in their case largely technical. On the other hand, there are prisoners who, because their release is considered potentially dangerous to internal security, are kept in prison after their terms have expired. It is difficult to discover what legal grounds are employed for this practice of "extension of sentence," but two methods which are known are: punishment for offences committed in prison, and new charges brought against a prisoner in relation to acts committed prior to the offence for which he was sentenced.

One British newspaper has printed a report that 6,000 prisoners will be released from prison following this recent amnesty. Our own inquiries from the Spanish Embassy in London show that the Government itself has no knowledge of the number of people likely to be released. Our own estimate is that the number is somewhere round 100.

This issue of *Amnesty* carries an eye-witness account of the Court Martial of young Basques in Madrid. The total disproportion of the sentences to the offences allegedly committed show that it will take a good deal more than the grant of an amnesty every three years to raise the Spanish judicial system to an acceptable international standard.



Defence Counsel on trial in Paris

SIX of the most prominent French Counsel engaged over the years in defending Algerians have been brought to trial themselves. In Paris, four French and two Algerian lawyers are being charged with a conspiracy to pervert the course of justice. Among the counts is one charging the lawyers with accepting fees from the F.L.N.

The leading French lawyer involved, Maitre Verges, claimed at the opening session that the etiquette of the French Bar prevented him revealing the source of his fees. He took the point that all the facts in the case were known to the authorities at least two years ago.

Amnesty, while expressing no view on the charges, strongly regrets the intervention of the French State in a matter which falls within the internal discipline of the French Bar. It is hoped to publish a fuller commentary on this trial in a later issue.

READERS REPLY TO OUR QUESTIONNAIRE

UNFORTUNATELY there is no space in *Amnesty* for the full analysis of the answers sent by readers of our questionnaire on the "Boundaries of Freedom," therefore the following article is merely a brief summary of the main conclusions which emerged from the answers. We would like to thank the people who replied for the consideration and thought which they gave to the questions, and the suggestions which they made.

It became apparent from the answers to the first question "When may a citizen legitimately endeavour to change his government or its policy?", that it is considered necessary to abide by the law, if possible, and that violence should only be used if every other method has failed. But it would be legitimate to break the law when constitutional rights were withdrawn or failed, or when the freedom of speech, of the press, of radio and television were threatened. These four freedoms were highly prized and considered a basic right of every citizen. So was the right for a fair trial. If any of these rights had to be suspended during an emergency it should be for as short a time as possible. Also, during an "emergency" a citizen may be "detained" but he should not be sentenced until a fair trial has been held.

It was felt that the citizens of a newly emergent state who may not necessarily qualify for full citizenship should nevertheless be protected by, and have the right of appeal to, a supra-national tribunal.

In regard to the second question "what are the legitimate limits to the free expression of opinion" most people realised that there would always have to be some limitations to the freedom of speech, but all, without exception, thought that these should be as few as possible. It was suggested

that there should be no limitation of the freedom of political opinion.

It was felt that freedom of speech could be limited on the grounds of (a) breach of copyright; (b) libel or slander; (c) sedition; (d) danger of breach of the peace; (e) a law case *sub judice*; and, with the state of the world as it is at present (i) the leakage of scientific and military secrets; and (j) the existence of a state of emergency. Two people felt that (e) and (f) were abused and should only be available where there was a clear and present case of danger.

Two others pointed out that (i) and (j) were necessary today because of the tension in the world, but that a Government should not be able to make them an excuse for restricting freedom of informa-

tion and conducting a large part of its business in the dark (as in Britain under the Official Secrets Act).

Question three asked: "What are the limits to civic exemption based on conscientious objection?" The answers to this question were delightful. Everybody was wholeheartedly in favour of dissenters, and thought that they should, in fact, be encouraged. It was felt that they were a stimulus to thought, a spur to progress, a sign of a healthy society, and so on.

However, most people were agreed that an individual should allow the will of the majority to determine his behaviour in public and should conform to their laws. But it should be recognised that
(continued on opposite page col. 3)

AMNESTY'S FIRST CONFERENCE

READERS of *Amnesty* will remember that earlier this year we had plans for holding an important conference or colloquy at Utrecht at the end of December to discuss the wide ranging questions of "Boundaries of Freedom." Unfortunately, for lack of money, it has not been possible to arrange this conference on the scale we had hoped and rather than hold a "shadow" colloquy we have now recast our plans completely.

We have therefore arranged a one-day conference in London at the Niblett Hall, Temple, E.C.4, for Saturday 27th January, on "PERSONAL FREEDOM IN THE EMERGENT COUNTRIES." Events in Ghana and other parts of Africa have startled the world in recent months, and part of the conference will be devoted to examining the conditions of political freedom in Ghana and religious freedom in the Sudan.

Gerald Gardiner, Q.C., will act as Chairman of one of the sessions. Dr. Anthony Allott, Reader in African Law at the School of African and Oriental Studies, London University, will deal with the principles of personal freedom; Dr. Busia of Ghana, formerly Professor at the Hague Academy of International Law, will apply these principles to the problems of Ghana; and Peter Kilner, of the Arab News Agency, and a former *Times* Correspondent in the Sudan, will explain the situation in that country.

It was felt that this conference, besides having the advantage of topicality, would enable our members to consider the question of freedom of opinion and religion in a different context from one that is normally discussed.

Admission to the conference will be by ticket only and will cost 2s. 6d. Applications should be sent to Amnesty Conference, 1, Mitre Court Buildings, Temple, E.C.4. (It is anticipated that the conference will start at 10.30 a.m. and finish at 5.30 p.m., but these times are subject to alteration.)

But who watches the Police?

by Martin Ennals, Secretary of the National Council of Civil Liberties

READERS REPLY TO QUESTIONNAIRE

(cont.)

THERE are three issues involved in the demand for an independent inquiry into the police handling of the Committee of 100 demonstration in Trafalgar Square on September 17; first, the allegations made of actual violence used both in individual cases and in the general manner of treating people, especially after midnight; secondly, the way in which journalists, photographers and other observers were treated by the police, who allegedly refused them permission to enter the Square after 10.30 p.m. or to take photographs of arrests after midnight, and, thirdly, the illegality of the apparent extension of an order (under the 1936 Public Order Act) which could not be extended without the express approval of the Home Secretary.

* * *

The police handle millions of people in crowds annually. In 99 per cent of these cases there are no complaints, only praise for the tolerance, forbearance and patience of the "bobby." The remaining one per cent, however, is a significant part of the pattern of police behaviour and should be treated as seriously as any symptom of a potentially dangerous disease.

There is, at present, no adequate or satisfactory means of obtaining an independent inquiry into allegations of police misconduct. The Thurlow boy case which was probably the immediate prelude to the establishment of the Royal Commission on Police, was finally settled by a special tribunal set up for that purpose after weeks of pressure on the authorities.

The present situation regarding investigations of complaints on the 17th/18th September is that the Commissioner of Police is making

inquiries and on October 17th had examined 15 of the 30 complaints received without having found sufficient evidence to substantiate allegations made.

However, even assuming that the Commissioner does find that in one or two cases there is sufficient evidence of police identification to bring one or two individual constables before a disciplinary tribunal under the police code, the overall complaint will not have been examined and the question of treatment of the press, and the misleading of demonstrators and the public regarding police powers, will remain unanswered.

* * *

The arrival of police reinforcements in the Square and their subsequent manhandling of the public and the few remaining demonstrators was reported by independent observers, including the "Daily Telegraph" reporter and Lord Kilbracken. But only an Independent Inquiry can establish who was responsible, who gave the orders for the change in tactics and who authorised the police notice on the extension of the ban in the area.

Perhaps the Royal Commission on Police in its report next year will recommend the setting up of tribunals to hear grievances against the police. In any case, the Commission now sitting is not able to examine individual cases or incidents.

Until a permanent system of grievance machinery is established, *ad hoc* arrangements must be made. That the Committee of 100 was intending to break the law is (in this context) not important; that they have not complained is not important. Public confidence in the police force, however, is very important. The reputation of the force is not enhanced by the police investigating allegations of their own guilt.

the minority had certain rights which should be allowed, and if these were not allowed, then the minority were perfectly entitled to defy the laws of the majority. It was felt that an individual was entitled to break a law which he felt to be a bad law if it went against his conscience, for ultimately, an individual has the right to decide for himself according to his conscience.

The most important fact that emerged from the answers to question four which asked, "What obligations has one state to admit the citizens of another?" was that everybody believed that a state's first duty was to protect its own citizens, before offering hospitality to any person whether he was a refugee or D.P. who needed to get to a new country, or an immigrant who wanted to enter. The test was whether people could be allowed to enter without causing unemployment, housing or food shortage or hardship in the host country.

When an immigrant has been admitted he should be allowed to work, as long as there is not a large amount of unemployment, and he should be allowed to have his family with him provided that he can support them.

It was almost unanimously agreed that criminals (non-political criminals) should be refused entrance. Also that those with infectious diseases should not be admitted, until they had been cured. This was felt to be unkind but necessary.

Five years of peaceful law-abiding residence was felt to be necessary to qualify for citizenship.

A number of people gave no answer at all to question five, "What obligations has one state to admit the citizens of another?"

It was felt that no person should ever be left stateless, this was a crime against humanity and that there should certainly be a supra-national tribunal to protect anyone who was placed in this position.

WAS GANYILE KIDNAPPED?

ANDERSON GANYILE, young militant leader of the Pondo people, was seized by the South African police on November 7, 1960.

Asked whether he would go voluntarily into exile in the desolate banishment camp of Frenchdale, Ganyile refused and was taken into custody. He was not allowed to send any message to his family nor to collect any clothes or belongings. He was handcuffed, hustled into a car and driven off under escort to the nearest railhead at Umtata. From there, after a night in the police cells, he was taken, still handcuffed and under police escort, by train to Mafeking, more than 500 miles away, and then by police car to the bleak prison of Frenchdale.

However, Anderson Ganyile risking capture and gaol, left the camp and made his way to political asylum and freedom in the British Protectorate of Basutoland. But after only 10 months of liberty, Ganyile has vanished mysteriously from the lonely hut where he had been living with two friends, near the Basutoland-South Africa border.

Another refugee from South African banishment, who had also fled to Basutoland, was called to the deserted hut by a young boy who had noticed that the hut was open and empty. He went immediately and found blankets, clothes and groceries at sixes and sevens. "There were three beds in the hut," he said, "on one bed there was a blanket carrying big bloodstains, and on another bed two blankets, slovenly spreading from the bed to the floor, were also bloodstained. The fawn jacket which Ganyile often wore was also lying under the bed. A small table made of some planks was broken and lying upside down. Some

books, newspapers and other articles were scattered in an awful mess on the floor."

Meanwhile, friends of Ganyile living in South Africa received the following note:—"Kidnapped in Basutoland on 26/8/61 at 10.30 p.m. by 6 policemen from the Union. Three of us are now in KD (Kokstad) and we appeal to friends. We know and can identify our kidnappers.—Yours, POWERS." Powers is the name used by Ganyile when writing to friends in South Africa, and the handwriting is unmistakably his.

* * *

Challenged, the South African police admitted that they had Ganyile in custody, but denied that he had been kidnapped from Basutoland, and refused to reveal where he was. Pondoland is still under a proclaimed State of Emergency, following opposition by tribal leaders to the Government measures forced upon them, and Emergency Regulations protect the police from having to disclose the whereabouts of detainees.

A Habeas Corpus application was made by Ganyile's uncle to the Supreme Court, demanding production of the body and calling for the release of Ganyile and permission for him to be returned to Basutoland, or, alternatively, for

information as to whether Ganyile is under arrest, and if so, on what charge he is arrested, where he is being detained, and why he is being detained. The Minister of Justice is cited as the first Respondent.

The British Under-Secretary of State for Commonwealth Relations, Mr. Bernard Braine, told a deputation in London that the British Government had "insufficient evidence to establish that Basutoland's borders had recently been violated by the South African police" but "investigations were still going on." The British Government would take a most serious view if the allegations were proved to be true.

But Ganyile's fellow-refugee writes of a build-up by the Basutoland police officers of insinuations that Ganyile was smuggling and "might have gone over the border," combined with smears of Communism. "No person can continue to live in Basutoland with literature like that of Ganyile!" These tactics are evoking passionate indignation from Ganyile's colleagues and friends.

The result of the Habeas Corpus application is not yet known, but it is awaited with impatience. Only when Ganyile is produced, only if he is still alive, can the real story be told.

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Franco's persecution of the Basques *(continued from front page)*

The prisoners were guarded by armed uniformed civil guards and the court heavily protected by the military, the public severely vetted before being permitted to enter, and many security police were mingled among them. The wives and relatives were allowed no contact with the prisoners during the adjournments, and the trial itself had no pretence of fairness to the defendants. The outcome seemed a foregone conclusion.

* * *

The tribunal comprised seven officers presided over by a beribboned colonel, and the presentation of the case against the accused was shared between the Public Prosecutor and the Ponente, a member of the tribunal but in effect a second prosecutor, both majors. The only lawyer allowed the prisoners was a major they had been permitted to choose a few days earlier from a list of officers presented to them, and they only had two or three interviews with him. They were not allowed civil lawyers.

* * *

The trial was confined, first, to the reading of the indictments and the declarations of the prisoners admitting their participation. Second, to the examination by the Public Prosecutor and Ponente of the prisoners, who denied their guilt but refrained from explaining the contradiction between their declarations and their statements in court, allowing the implication of extortion of confession under pressure to be drawn. The defence participated little at this stage. Third, some half dozen witnesses were called for the prosecution, consisting of railway experts to describe the damage, the linesman who discovered it, and the police who had questioned the prisoners. Again the defence did little and no

witnesses were allowed for the defence. Fourth came the winding up speeches of the prosecution and defence. The former repeated the accusations against the prisoners, ranting against them as criminals undermining the security of the State, attacking the head of the régime and Spain, but their main crime appeared to be that they were Basque Nationalists.

* * *

The defence, to his credit, made a long and impassioned appeal on behalf of the prisoners, which went as far as possible within the limits of the procedure and was certainly courageous. His main contention was that no proof had been produced that the accused were guilty of the crimes they were alleged to have committed, and that the penalties asked were completely disproportionate to their nature, but his appeal was in vain.

The Prosecutor asked 25 years' imprisonment for two, 15 years for one, and 12 years for the rest. The defence asked their reduction to terms of imprisonment varying from six months to four years. The sentences handed down were 20 years for one, 15, 10, 7, and 5 for the others.

* * *

This political trial was clearly staged as an attack on Basque Nationalism, and the defendants were the scapegoats. That they are Basque Nationalists and engaged in propaganda activities for their cause is indisputable, but that they were not the guilty authors of the attempt at derailment—the two ringleaders of which had, in any case, escaped to France—is certain. The case against them was unproven. In effect, all they were guilty of was opposition to the Franco régime and engaging in activities which any Welsh or Scottish Nationalist might be guilty of in a moment of enthusiasm for his cause.

RUSSIAN JEWS JAILED

THROUGHOUT the last twelve months it has been known that the Soviet Government was making it increasingly difficult for the country's two million Jews to go to synagogue. A variety of reasons have been given for closing down synagogues, mostly under some town planning regulation—the synagogue is found to lack a fire-escape or proper sanitation. Not unnaturally, the result was to bring out Jews in excessive numbers to the few remaining synagogues on the one day in the year when every practising Jew is bound to attend services—the Day of Atonement. In Leningrad, it is reported that 12,000 Jews gathered outside the only remaining synagogue in the city. Unable to enter the building the greater part of the crowd stood outside, praying and chanting.

This was taken by the authorities as an excuse to sentence the community leaders to long terms of imprisonment. On 13th October, Gedalia Perchersky was sentenced to 12 years' imprisonment, and two other leaders, both over the age of 70, Dynkin and Kaganov, were sent to prison for four years.

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