Political Imprisonment in Uruguay

Amnesty International

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Amnesty International was founded in 1961 in Britain with the belief that every person has the right to hold and to express his convictions and has an obligation to extend the same freedom to others. It is now a worldwide human rights movement which is independent of any government, political, ideological or religious grouping.

Amnesty International works for the release of men and women imprisoned anywhere for their beliefs, colour, language, ethnic origin or religion, provided they have not used or advocated violence. These are termed "prisoners of conscience".

Amnesty International opposes the use of torture and the death penalty in all cases and without reservation. Since 1973 Amnesty International has been conducting an international Campaign for the Abolition of Torture.

Amnesty International advocates fair and early trials for all political prisoners and works on behalf of persons detained without charge or without trial and those detained after expiry of their sentence.

Amnesty International seeks observance throughout the world of the United Nations Universal Declaration of Human Rights and of the UN Standard Minimum Rules for the Treatment of Prisoners.

Amnesty International has consultative status with the United Nations (ECOSOC), UNESCO and the Council of Europe, has cooperative relations with the Inter-American Commission on Human Rights of the Organisation of American States and has observer status with the Organisation of African Unity (Bureau for the Placement and Education of African Refugees). In 1977, Amnesty International was awarded the Nobel Peace Prize.

Amnesty International is financed by individual subscriptions through its national sections around the world. Its income and expenditure are published annually with the Annual Report. To safeguard the independence of its organisation, all contributions are strictly controlled by guidelines laid down by Amnesty International's International Council.

Amnesty International has 2000 adoption groups and national sections in 35 countries in Africa, Asia, Europe, the Middle East, North America and South America and individual members in a further 74 countries. Each adoption group works for three prisoners of conscience in countries other than their own. The three countries are balanced geographically and politically to ensure impartiality.

Amnesty International arranges missions to the countries with which it is concerned and sends representatives to speak to governments. It also sends observers to trials whenever this is worthwhile and possible.

Amnesty International provides relief to prisoners of conscience and their families when such assistance is needed. The relief may be in the form of money, clothes, books and other material needs or help with legal, educational and other costs.

Amnesty International is governed by an International Council which meets once a year. The council is composed of representatives of Amnesty International's national sections and members of the International Executive Committee. The committee is responsible for the implementation of the decisions of the council by the International Secretariat in London. Eight of the committee's nine members are elected for two-year terms by the International Council. The ninth member is elected by the International Secretariat staff for a one-year term.

POLITICAL IMPRISONMENT IN URUGUAY

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POLITICAL IMPRISONMENT IN URUGUAY

Uruguay in outline

The Eastern Republic of Uruguay is situated on the south-east coast of the South American continent, bordering on Brazil in the north and Argentina in the south. With a total area of 72,000 square miles it is the smallest country in South America. The inhabitants are almost entirely of European descent: the criollos from the colonial period and the immigrants of the 19th and 20th centuries. Half of its predominantly urban population of 2,700,000 live in the capital, Montevideo. It has the largest population of middle class in Latin America and a high level of education and, until recently, of political participation. The Uruguayan economy is based on agriculture and cattle raising, and the main export products are meat and wool.

Since the 19th century, the two main political groups have been the Blancos (Whites) and the Colorados (Reds). Historically the former was predominant in rural areas (and closely linked with the landowning interests, the Church and tradition) while the latter's support comes mainly from the urban middle class (business employees). A left-of-centre coalition, Frente Amplio (Broad Front), was formed for the elections of 1971.

Uruguay had, in 1970, the highest literacy rate, the lowest birth rate and the longest life expectancy in Latin America. It also had one of the highest ratios of newspapers per capita in the world.

Uruguay formed part of the Spanish Empire for over three centuries, but due to its lack of precious metals, it was not exploited like the rest of Latin America by the colonizers. After wars with Spain, Argentina and Brazil, Uruguay achieved its independence in 1828 through the mediation of Great Britain.

Throughout the 19th century Uruguay suffered continual civil wars, foreign intervention and invasion, but in the 20th century, with the exception of President Gabriel Terra's authoritarian measures in 1933, Uruguay became a stable democracy with regular elections, the peaceful transfer of power and respect for legality and civil rights. The statesman José Batlle y Ordóñez introduced a collegiate system of government based on the Swiss model, gave the state control of the main branches of the national economy and created a very advanced system of social welfare. He also curbed the influence of the Church and the Armed Forces.

In the 1950's Uruguay began to experience serious economic difficulties: lower prices and reduced demand for the main export products on the world market, and spiralling inflation. The stagnation of the economy, which could no longer support the extensive welfare system, brought about the widespread social discontent among a highly-unionized labour force, who frequently took strike action, as well as among the large sector of pensioners.

This social unrest led to a gradual erosion of the rule of law in Uruguay. In the late 1960's, the Executive began to use far-reaching emergency legislation in order to curb the labour unrest, control the economy and combat the urban guerilla movement, MLN-Tupamaros (National Liberation Movement). The increasing role of the armed forces in this process culminated in February 1973 when they took control of internal security and economy. In June 1973 the Executive dissolved Parliament. In July it banned the main trade union movement and in December the majority of the political parties, and subsequently suspended all political activity. The Parliament was replaced by the Council of State, designated by the Executive. Military tribunals have been given jurisdiction over civilians in political and trade union matters. This strong executive control has, however, not been followed by improvement of the economy which continues to suffer rampant inflation. Official statistics indicate a drop of 38% in real wages over the past ten years.

While maintaining an appointed, civilian president, the Armed Forces de facto rule the country through a complex structure of newly-created bodies such as the National Security Council and the Council of the Nation, as well as through military appointees to local government, state corporations, the university and other major institutions of society.

The traditional separation between the executive, legislative and judicial power has thus been abolished in the past few years. The Constitution of 1967, although not repealed, is gradually being changed through the passing of Institutional Acts. A new constitution is under preparation.

1. Amnesty International Concerns

In less than a decade Uruguay has passed from being a moving force for the promotion of international safeguards for peaceful settlements of conflicts and for human rights to becoming a target for criticism from the international community for its infringement of basic human rights. Amnesty International's main concerns in Uruguay are the following:

1. Large scale imprisonment of peaceful political opponents and trade unionists, often with retroactive application of new laws to previously legal activities.

2. Illegal detention procedures and lack of legal safeguards, including prolonged detention incommunicado, maltreatment and torture, sometimes resulting in the prisoner's death. Unrecognized arrests ("disappearances").

3. Detention without trial under the emergency provisions of the Prompt Security Measures.

4. Trial of civilians before military tribunals whose procedures do not conform to recognized norms for ensuring a fair trial.

5. Arrests and forcible return of Uruguayan exiles and refugees in neighbouring countries.

6. Prison conditions.

2. Political and Constitutional Context

The Uruguayan Constitution of 1967 contains 65 articles guaranteeing civil rights and provides for the full separation of the three branches of state power: executive, legislative and judicial. In less than a decade, however, executive interventions, a number of decree laws and eight Institutional Acts have eroded the constitutional guarantees which were held in great respect in Uruguay during most of the 20th century.

Some laws affect the rights of all citizens of the country, e.g. the right to participate in political life; others are more specifically related to imprisonment for political reasons.

In 1976, after a dispute with the elected President, Juan Bordaberry, the Armed Forces appointed an elderly lawyer, Dr. Aparicio Mendez, to replace him. Presidential elections have been announced for 1981 but with only one candidate, approved by the Armed Forces. It is reported that the Council of State is drawing up a new constitution.

Institutional Act No. 8 (1977) and a decree law of the same year abolished the independence of the judiciary and reduced the authority of the Supreme Court of Justice by making the judges subject to removal during their first four-year period of office. All civilians charged with political and trade union offences are tried by military tribunals.

The Council of State, like the General Assembly, is entrusted with the power of controlling the Executive, particularly with regard to the individual guarantees and rights of citizens. As its members are themselves appointed by the Executive - in practice, the Armed Forces - this function, as well as their legislative one, has not been fulfilled.*

The system of military justice and the powerlessness of the Council of State under the political (i.e. military) authorities have left effectively no possibility for domestic remedy of infringements of human rights. Numerous complaints have therefore been addressed to international bodies such as the Commissions of Human Rights of the United Nations and of the Organization of American States. Uruguay has signed the Universal Declaration of Human Rights, the American Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights (which came into force in 1978), and has ratified the International Covenant of Civil and Political Rights, with its Optional Protocol (in force since 1976).

3. Prisons and Prisoners

Since 1971 when political imprisonment began to take place on a larger scale in Uruguay, the number of political prisoners has varied from a few hundred to 5,000-6,000 and, according to exile sources, has even reached 8,000. In 1976, Amnesty International estimated that 1 in every 500 citizens in Uruguay was in prison for political reasons and that 1 in every 50 citizens had been through a period of imprisonment, which for many included interrogation and torture. These figures reflected the frequency of short-term detention without trial of trade union activists and the numerous arrests made during 1975/76, mainly of members or supporters of the Uruguayan Communist Party. In 1979, according to Amnesty International's records, between 2,500 and 2,800 prisoners of conscience and other political prisoners are being held in the various military and civilian prison establishments and military barracks used as places of detention. This still means that one in every 1,000 citizens is a political prisoner,

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* The official gazette, Diario Oficial, of 15 November 1978 reports members of the Council of State as considering themselves "advisers to the political power" and as having said: "When a matter is classified as political, our position can only be to support the project in question".

without taking into account the approximately 500,000 Uruguayans who have gone into exile, or all those who, in 1978 and 1979, continued to be arrested for short terms, interrogated and tortured in some military barracks without being charged or tried, or entered in any judicial register. Amnesty International has recorded many such cases but the available information is not complete enough to allow for reliable statistics. The figure does not include those over 100 Uruguayan citizens who in the past 5 years have "disappeared" after arrest either in Uruguay itself or in neighbouring Argentina.

Those at present in prison in Uruguay include:

1. Persons on charges connected with the ideological activities of the urban guerilla organization Movimiento de Liberación Nacional (MLN-Tupamaros), active in the late 1960's and early 1970's.

   Among these prisoners are leading members of the MLN as well as persons with marginal connections with the movement. There are also prisoners who have had no connection with the MLN but who have been convicted on the basis of false confessions extracted under torture. Many have not yet been sentenced; others are serving sentences ranging from about 5 to 30 years, some with Security Measures of up to 15 years added to the sentence, which also prevents release before expiry of the sentence. A certain number have now served their sentences; most of these are being released, usually only after a period of a few months of administrative detention in military barracks; others are being kept under indefinite administrative detention in military barracks despite the expiry of their sentence. The male prisoners are held in the military high security prison Establecimiento Militar de Reclusión No. 1 (EMR 1), also called the Penal de Libertad, or in isolation in various military barracks; the women prisoners are held in Establecimiento Militar de Reclusión No. 2 (EMR 2), also called Penal de Punta de Rieles.

2. Supporters or alleged supporters of the various political parties or groups that were outlawed by decree in 1973, including large numbers of trade union activists from a wide range of unions. Virtually every profession is represented: teachers, lawyers, doctors, writers, journalists, members of parliament, and some 20 military officers (two of whom are former generals). Some are held in EMR 1 or 2, others in special sections of common law prisons, such as Penal de Punta Carretas or the Cárcel Central of the Police Headquarters. They face a variety of charges, such as "attack on the moral strength of the Armed Forces", "subversive association" or "assistance to subversive association". The majority have not been sentenced. Sentences passed range from 2 to 14 years imprisonment. A few distinguishable groups are:

   a) Members of the Grupos de Acción Unificadora (GAU) (Groups for Unifying Action). They were arrested in 1973/74 in connection

with the explosion of a bomb at the Engineering Faculty of the University of Montevideo. The explosion killed one student who was alleged by the authorities to have belonged to a group affiliated to the GAU and to be responsible for the bomb. No evidence has been established to link the student with the bomb, nor has the prosecution been able to advance proof of the GAU leaders' responsibility for the explosion. Some of the defendants were arrested before the explosion, which makes the allegations against them even more dubious. Some of them have now served their sentences and been released; others were given sentences of up to 10 years.

b) Members of the main trade union organization, Convención Nacional de Trabajadores (CNT). The decree which outlawed the CNT in 1973 also ordered the arrest of its leaders. The banning followed a general strike, organized by the CNT, in protest against the closure of Parliament on 27 June 1973. Arrests of trade unionists have since been numerous. Some are arrested on the basis of their trade union activity alone while others are held and charged for their alleged support or membership of the Uruguayan Communist Party.

c) Supporters, or alleged supporters, of the Uruguayan Communist Party (PCU). The PCU has a long parliamentary tradition in Uruguay, and was, except for its most important leaders, one of the last targets of repression after the military takeover in 1973. The largest wave of arrests took place at the end of 1975 and the beginning of 1976, but arrests still continued in 1978. The PCU was then accused of having a military branch and of being in possession of arms. Informed observers question this accusation and attribute the persecution of PCU sympathizers to the avowed and virulent anti-marxist position taken by the present Uruguayan regime. The PCU Secretary General was released and allowed to go into exile in 1975. This category of prisoner includes workers, professionals, and members of Parliament.

d) About 20 military officers, arrested between 1973 and 1976. The charges against them refer to the pre-election period of 1971, when they reportedly pledged themselves to defend the Constitution in the event of a military coup d'etat, as well as to the massive peaceful protest organized in 1973 in Montevideo in protest against the closure of Parliament. Among these officers are General Liber Seregni, candidate for the presidency in 1971, and Captain Carlos Arrarte, who in 1972 tried to stop some military colleagues from torturing a political prisoner.

4. Legal Context

(i) Detention Procedures

Arrests are made by unidentified members of the Combined Forces (Police and Armed Forces) without a written warrant, often at dawn and with a great display of force. The person is immediately hooded and, apparently as a matter of routine, brutally treated. No reason is given for the arrest, nor is the family informed of where the person is taken. There is normally a period of detention incommunicado, often of weeks or even several months, without access to family or to a lawyer. This period is often spent in a military barracks where maltreatment and torture have become routine over the past five years.

In the meantime, families will wander from regiment to regiment trying to locate their relative. Writs of habeas corpus are ineffective, either because of the judge's failure to act or because the arrest is claimed to have been made under the Prompt Security Measures and consequently is considered to fall outside the judge's authority.

It should be noted that the practice of "disappearances" and political killings which is common in several Latin American countries, e.g. Guatemala, Chile and Argentina, is not a predominant feature of repression within Uruguay itself. Persons who are reported to have "disappeared" in Uruguay tend to appear after months of unrecognized detention incommunicado. Those who have remained "disappeared" are believed to have died under torture, although the authorities have refused to return the body to the families for burial. However, Uruguayan and Argentinian security forces are jointly responsible for the "disappearances" of Uruguayan refugees and exiles in Argentina. Also, 22 dead bodies have been washed ashore in Uruguay since 1976. The latest victims, found in April 1979, showed, like the others, signs of illtreatment and had hands and feet tied together.

(ii) The Administration of Military Justice

The Uruguayan legal system is based on Roman Law and trials are conducted almost exclusively by means of exceedingly slow written proceedings. Interventions by the prosecution and defence, as well as depositions by witnesses, form the trial dossier on the basis of which judgement and sentence are passed by the trial judge.

Trial proceedings normally take several years and pass through three court stages: the examining magistrate (juez de instrucción); the sentencing judge (juez de primera instancia); and, in nearly all cases, the appeal, which under military jurisdiction is made to the Supreme Military Tribunal. When military justice was introduced for civilians in 1972, it lacked judges, personnel and offices. The military magistrates were increased from three to six and generally have the rank of colonel. With

the sudden increase in political imprisonments, extensive use has also been made of an exceptional provision under military law, the summarizing judge (juez sumariante). He is a military officer, without any legal training, and is in charge of the preliminary investigation in cases where the judge will be delayed, e.g. if the military crime has been committed on a ship. With the breakdown of the rule of law in recent years in Uruguay, the juez sumariante has come to be used to obtain the prisoner's statement after weeks or months of detention incommunicado, interrogation, maltreatment and torture in a military barracks where he can still be subjected to further torture if he does not confess. Some prisoners are released from barracks without further judicial intervention.

The same lack of protection exists in practice also when the prisoner is brought before the military examining magistrate. These judges have proved not to have the will or the power to prevent the Combined Forces from sending the defendant back to the barracks. The judge can either release the prisoner or file an indictment on the grounds of prima facie evidence, a "confession" extracted under torture, or his own "moral conviction" that the defendant is guilty.

It is only at this stage that the defendant first has access to defence counsel. An appeal against the indictment can be made to the Integrated Supreme Court (five civilian and two military members) but the lack of civilian defence lawyers, the three day limit for presenting the appeal and the slow handling of the case gives this recourse little practical effect.

During the first period of military trials, the judges never passed sentences higher than the prosecution requested. However, after one judge passed one such sentence (ultrapetita), this soon became general practice, supported by the Supreme Military Tribunal (STM). This tribunal receives 80-90% of all cases for a review of the trial. This review was intended to serve as a guarantee for the defendant but, at present, the STM often passes higher sentences than those given by the trial judge - even when the defence was the only party to appeal.

The authority of the Integrated Supreme Court to review cases once a year and grant early releases has been abolished.

The military judges have, on the whole, no legal training and continue to be part of the military hierarchy, even to the extent of enjoying "battle pay" like other active members of the Armed Forces. It is significant that the trial begins on an order from the Ministry of Defence who gives the magistrate the authority to act. According to the law, the case should go to whichever magistrate who happens to be on duty (de turno) for that week. The current practice is, however, different: all important cases are reported to be sent to magistrates and judges who enjoy the confidence of the military command.

Jurists have expressed concern that the judges do not understand the nature of a trial, i.e. they may take measures against defendants and defence counsel for behaviour or acts that are part of their normal rights and duties under law. Another serious allegation made against the military courts is their reliance on a parallel or "submerged" dossier drawn up by the security forces and consisting of information on the defendant's character and on activities which are not proven in court. As the defence counsel does not have access to this dossier, he cannot provide a proper defence against these allegations.

Institutional Act No. 8 (1977) and a decree law of the same year changed the system of designation and security of office of all members of the judiciary. They removed from the Supreme Court the authority to designate judges and established that all judges can be dismissed without cause at any time during their first four years in office. In addition, all current judges were declared "interim" for a period of four years. These changes finalize the process begun in 1972 of eliminating the independance of the judiciary.

(iii) Defence Counsel

The erosion of traditional principles of law has also affected those who act as defence counsel for political prisoners. Their work is seriously hampered by the following factors: they have access to their client only after a prolonged period of incommunicado detention and, frequently, maltreatment, and after the indictment has been drawn up; in prison, they are not allowed to speak to their client in private despite explicit provision in Uruguayan law; they do not have the same access to the trial dossier as the prosecution and are generally not treated on equal terms with the latter. The practice of increasing a defendant's sentence on appeal can also be used as a kind of punishment of counsel. The intimidation of lawyers who take on the defence of political prisoners has gone much further in recent years. Many have been imprisoned themselves or have had to go into exile, while others no longer take on political cases. Apart from the assumption by the rulers that defence implies sympathy for the prisoner's beliefs and activities, the persecution of lawyers is believed to stem from the fact that in the course of their work they became witnesses to a number of irregularities committed by the Combined Forces (Armed Forces and Police).

5. Amnesty International Action

1. In 1969 Amnesty International sent an observer to Uruguay who reported that there was some incidence of torture of political detainees by the police and, to a much lesser extent, by the Armed Forces.

2. In 1974 Amnesty International and the International Commission of Jurists had a joint mission to Uruguay. The delegates met the political and judicial authorities to discuss legal safeguards, arrest procedures, administrative detention under the Prompt Security Measures, and individual cases of prisoners of conscience and political prisoners. They also visited the Penal de Libertad (EMR No. 1). The recommendations made in the mission report included: stringent safeguards against the abuse of authority by arresting agencies, written warrants of arrest by competent judicial authorities, and an early return to civilian justice.

3. In 1976 Amnesty International organized a worldwide campaign against torture in Uruguay and published information on 22 cases of persons who had died in the custody of the Armed Forces. The campaign was supported by governments, as well as by non-governmental organizations. A petition with 350,000 signatures asking for an independent inquiry into the allegations of torture was presented to the Uruguayan Permanent Mission to the United Nations in New York with a copy to the Secretary General of the United Nations, Dr. Kurt Waldheim.

   The same year, Amnesty International gave a testimony to a hearing on human rights violations in Uruguay before a United States Congressional Subcommittee.

   The Uruguayan Government has invariably responded to all concern expressed by the international community at violations of human rights, by saying that such allegations are part of an international marxist conspiracy. No independent inquiry has ever taken place within the country.

4. In 1978 Amnesty International published information on 12 further cases of deaths under torture. The leaflet also included five cases of persons who have disappeared but who are believed to have died in detention.

5. For several years Amnesty International has maintained an extensive adoption program of Prisoners of Conscience in Uruguay. Currently over 300 cases are allocated to Amnesty International groups in 19 countries. Every year Amnesty International has organized a considerable number of Urgent Actions on behalf of victims of unrecognized arrest, maltreatment and torture. Amnesty International has frequently released information to the press on illegal detention procedures and arbitrary arrest.

6. Amnesty International regularly submits information on violations of human rights in Uruguay to the Inter-American Commission on Human Rights and to the Secretary General of the United Nations.

7. In February 1979, Amnesty International made public several testimonies about torture in Uruguay, including a statement made by a former officer of the Uruguayan Armed Forces, who had himself been implicated in torture. His testimony corroborated Amnesty International's earlier information on the use of torture in Uruguay.

8. Amnesty International urges the Uruguayan Government to:

   a) release all Prisoners of Conscience;

   b) ensure that law enforcement agencies observe the legal safeguards enshrined in the Constitution and international instruments to which Uruguay is a party;

   c) return to ordinary justice for civilians in accordance with the Uruguayan Constitution (Article 253);

   d) establish an independent inquiry into all allegations of unlawful arrest and detention, maltreatment and torture, and in proven cases provide for compensation for the victims, according to Uruguay's undertakings under the International Covenant of Civil and Political Rights.

APPENDIX

1. Uruguay is a party to the following international or regional agreements in the field of human rights: the International Covenant of Civil and Political Rights and its optional Protocol (ratified by Uruguay on 11 July 1969); Freedom of Association and Protection of the Right to Organize Convention (No. 87); the Right to Organize Collective Bargaining Convention (No. 98), both ratified by Uruguay on 18 March 1954; Convention Relating to the Status of Refugees and Protocol, both ratified by Uruguay on 14 October 1969. Uruguay has signed the Universal Declaration of Human Rights (1948) and the American Convention on Human Rights (1969) and voted for the American Declaration of the Rights and Duties of Man (1948). Uruguay is also bound to respect the UN Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975) and the Standard Minimum Rules for the Treatment of Prisoners (1957).

2. Relevant Articles

a) International Covenant on Civil and Political Rights

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from Articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary on the date on which it terminates such derogation.

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

b) Constitution of the Republic of Uruguay 1967

Article 7. The inhabitants of the Republic have the right of protection in the enjoyment of life, honor, liberty, security, labor, and property. No one may be deprived of these rights except in conformity with laws which may be enacted for reasons of general interest.

Article 8. All persons are equal before the law, no other distinctions being recognized among them save those of talent and virtue.

Article 11. The sanctity of the home is inviolable. No one may enter it by night without the consent of its master, and by day only at the express order of a competent judge, in writing, and in cases determined by law.

Article 12. No one may be punished or imprisoned without due process of law and a legal sentence.

Article 14. The penalty of confiscation of property may not be imposed for reasons of a political nature.

Article 15. No one may be arrested except in case of flagrante delicto or by written order of a competent judge based on reasonable grounds.

Article 16. In any of the cases contemplated in the preceding article, the judge, under the gravest responsibility, shall take the declaration of the person under arrest within twenty-four hours and shall begin the summary process within forty-eight hours at the most. The declaration of the accused must be taken in the presence of his defender. The latter shall also have the right to attend all summary hearings.

Article 17. In the event of unlawful detention, the interested party or any other person may apply to the competent judge for a writ of habeas corpus to the end that the detaining authority shall immediately explain and justify the legal grounds for such detention, the decision of the aforementioned judge being final.

Article 20. The taking of an oath by the accused in making a declaration or confession regarding his own acts is abolished; and it is prohibited that the accused shall be treated as a criminal.

Article 22. Every criminal trial shall begin with an accusation by a complaining witness, or by the public prosecutor, secret examinations being abolished.

Article 23. All judges are responsible before the law for the slightest infringement of the rights of individuals as well as for deviation from the established order of procedure in that respect.

Article 24. The State, the departmental governments, the autonomous entities, the decentralized services, and in general any agency of the State, shall be civilly liable for injury caused to third parties, in the performance of public services, entrusted to their action or direction.

Article 25. Whenever the injury has been caused by their officials, in the performance of their duties or by reason of such performance, in the event they have been guilty of gross negligence or fraud, the corresponding public agency may reclaim from them whatever has been paid as compensation.

Article 26. The death penalty shall not be applied to anyone.

In no case shall brutal treatment be allowed in prisons; they shall be used only as a means of assuring that convicts and prisoners are reeducated, acquire an aptitude for work, and become rehabilitated.

Article 27. In any stage of a criminal trial which will not result in a penitentiary sentence, judges may place the accused at liberty, under a bond as determined by law.

Article 29. The expression of opinion on any subject by word of mouth, private writing, publication in the press, or by any other method of dissemination is entirely free, without prior censorship; but the author, printer or publisher as the case may be, may be held liable, in accordance with law, for abuses which they may commit.

Article 30. Every inhabitant has the right of petition to all or any of the authorities of the Republic.

Article 168. .....

17) To take prompt measures of security in grave and unforeseen cases of foreign attack or internal disorder, giving an account within twenty-four hours to a joint session of the General Assembly, or during its recess, to the Permanent Commission, of the action taken and its motives, the decision of the latter bodies being final.

With respect to persons, the prompt measures of security authorize only their arrest or removal from one place in the territory of the country to another provided they do not elect to leave it. This measure, like the others, must be submitted within twenty-four hours to a joint session of the General Assembly or to the Permanent Commission, which will make the final decision;

The detention shall not be at a place intended for the incarceration of criminals.

c) Convention No. 87 of the International Labour Organization

Convention concerning Freedom of Association and Protection of the Right to Organize

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization.

Article 4

Workers' and employers' organizations shall not be liable to be dissolved or suspended by administrative authority.

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CONDITIONS OF DETENTION FOR POLITICAL PRISONERS IN URUGUAY

Introduction

The growth in the number of political prisoners in Uruguay during the 1970s has inevitably led to an increase in the number of prisons and detention centres in the capital, Montevideo, and throughout the country. Some of these prisons are civilian and fall under the authority of the Ministry of the Interior, but most political prisoners are held in military establishments under the authority of the Ministry of Defence and the General Command of the Armed Forces. In addition, the barracks of virtually all units of the Armed Forces have been used as detention centres for political prisoners. In Montevideo 17 military units serve as arresting agencies and interrogation centres (13 army, one air force and three naval units, including the harbour police, the Prefectura Nacional Naval), as does the Dirección Nacional de Información e Inteligencia (DNII), which is part of the police force. Five of the six departments of the DNII are located at the Police Headquarters (Jefatura de Policía). In the interior of the country, there are 20 army units and a police centre (the riot police in Canelones), making a total of 39 agencies.*

The military barracks are normally used as detention centres for people undergoing pre-trial interrogation and who may or may not be brought to court for committal proceedings, as well as for people held in administrative detention without trial or after the expiry of their sentence. The ordinary and military prison establishments, as well as certain military barracks, are used for prisoners who have been charged and committed for trial.

During the 1970s the existing prisons for common law offenders, such as the penitentiary establishment known as Penal de Punta Carretas (after the district of Montevideo in which it is located) and the women's prison or Cabildo (named after the street in which it is situated) began to be used for political prisoners. Political prisoners in ordinary prisons are normally kept in a separate part of the prison. The prisons are administered by the Director of Penal Institutions (DIP) and fall under the authority of the Minister of the Interior. The DIP is also responsible for the Police Headquarters (Jefatura de Policía) in the centre of Montevideo, which holds a small number of political prisoners who have been committed for trial and a variable number of persons who are in administrative detention under the emergency security legislation (Medidas Prontas de Seguridad) or people who are undergoing pre-trial investigation. Many prisoners who have served their sentence or who have been granted freedom by the judge and are waiting for their release to become effective are also taken to the Jefatura.

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* Infantería 1, 2, 3; Caballería 1, 4, 6, 9; Artillería 1, 5; Ingenieros 1; Transmisiones 1; Infantería Blindada 13; Infantería Aerotransportada 14.

The vast majority of male political prisoners are held in Establecimiento Militar de Reclusión No 1 near the town of Libertad. Nearly all women prisoners are held in the Establecimiento Militar de Reclusión No 2, also called Penal de Punta de Rieles, near Montevideo. The School for Nurses, Dr. Carlos Nery (Montevideo), which used to hold women prisoners in one part of the upper floor, is no longer used. A small number of women who are held under security legislation despite the expiry of their sentence or the judge's release order, are held in the Establecimiento Militar de Reclusión No 3 at Paso de los Toros. In 1976 there were about 50 women, all procesadas (undergoing trial), held at the Cavalry Regiment in the town of Treinta y Tres. The present number, if any, is unknown.

Torture

Physical maltreatment and torture do not normally occur in the prison establishments. Since 1971 torture has been common practice during the period before the detainee is brought before the military examining judge (juez de instrucción militar) for committal proceedings. The person, who is arrested without a warrant, is immediately hooded and taken either to a military barracks or a private house used as an interrogation centre, or to one of the six departments of the Dirección Nacional de Información e Inteligencia (Montevideo). The prisoner is held incommunicado and his family is not informed of his whereabouts. After weeks or months, the family may be allowed to deliver a food parcel to a military unit or to the former military secondary school in Montevideo from where it is passed on to the prisoner, but the place of detention is not revealed. Relatives may also take away the prisoner's clothes (which are sometimes bloodstained). The period spent in incommunicado detention may range from a few weeks to many months. After the committal proceedings before the military examining magistrate have taken place and the detention incomunicado has been lifted, the detainee should, if charged, be taken to a prison. However, due to the present overcrowding of the prisons, he is often taken back to the barracks where he has undergone torture. Without taking into account the anomaly of civilians being tried by military judges without legal training, the return to barracks where he can be tortured again makes it virtually impossible for the detainee to retract a "confession" made under torture, or to report to the judge the treatment he has suffered.

People in the custody of the police are often transferred to the fourth floor of the Jefatura de Policía after a period of incommunicado detention at DNII. This transfer is considered a major improvement in detention conditions.

Reports of long, unconstitutional periods of incommunicado detention continued to reach Amnesty International in 1978 and 1979. On 21 July 1978 four persons * were arrested, taken to the DNII

* Pedro Varela Esponda, Francisco Laurenzo Pons, Hugo Montano, Omar Rodríguez.

and held incommunicado until the authorities finally acknowledged their arrest two months later. Luis Barrios Rodríguez was arrested in August 1978 and was still being held incommunicado in January 1979. During February-March 1979 several hundred people were arrested, held incommunicado for prolonged periods and reportedly subjected to torture.

Although there is no direct physical torture in the prisons themselves, harassment and abuses of authority do occur. The main cause of insecurity and anxiety among the prisoners is, however, the constant risk of being removed from the prison to an unknown destination, usually a military barracks, for renewed interrogation and torture. Such removals are often connected with new arrests and the military authorities' desire to obtain further information or "confessions" regarding new detainees, and take place either without the knowledge of the judge in charge of the case or with his connivance. * When four prisoners were removed from E.M.R. 1 (Libertad prison) in 1976, the international outcry made the Uruguayan authorities produce the prisoners for the press and television, although they were not allowed to speak.** Reportedly, they were again removed from Libertad prison after the press conference.

Cuarteles - Military Barracks

Due to the overcrowding of the prison establishments, cuarteles (military barracks) have been increasingly used as long-term detention centres. They mainly hold prisoners who are undergoing interrogation and torture before being brought before a military magistrate to be formally charged or released. In many barracks, however, there are also prisoners who are undergoing trial (procesados). In these barracks, prisoners are held either in very small individual cells (used as punishment cells for soldiers) or in huge galpones (sheds) which hold 30-50 prisoners or, as in the Regimiento 4 de Caballería, in disused railway carriages***. If the prisoner remains in a military unit after his incommunicado detention has been lifted, he may receive visits. Such visits last thirty minutes. For several years such visits took place in the Jefatura. The men were transported, in handcuffs and often blindfold, in armoured lorries. Each lorry contained over 20 prisoners and had only a small ventilation hole 20 cm by 20 cm.

* E.g. Washington de Vargas Saccone, who was missing from 16 March to 17 April 1978 when he was reported to be in the Military Hospital. He lay in a coma for two weeks.

** Alberto Mechoso, Hector Romero, Raul Cariboni, Alfredo Pareja. Romero and Mechoso were again removed for interrogation and torture in January 1979.

*** At one galpón at the Regimiento 5 de Artillería, there were 130 prisoners in 1976. There are also disused railway carriages at: Regimiento de Caballería 9; Infantería 2, 3; Artillería 5.

At the Jefatura they were separated from their families by two wire fences 90 cm apart. Armed guards sat behind the families. The noise generated when twenty prisoners and their families had to speak all at once made it difficult to hold any conversation and created considerable tension.

The military naval unit Fusileros Navales in the harbour of Montevideo has become notorious for the torture of political detainees brought there for various lengths of time before being taken before the military examining magistrate. At Fusileros Navales there are also prisoners already undergoing trial. They are kept in a hangar containing 45 cells, 2.2 m long, 1.4 m wide and about 2 m high, without windows and with only a small hole in the corner for ventilation. The small courtyard used for recreation is inside the same hangar. The general lack of fresh air is aggravated by exhaust fumes from the car engines of an adjacent workshop.

The prisoners are obliged to wear their blindfolds except when they are alone in their cells and during the weekly or fortnightly visits of one hour allowed to close relatives. They are obliged to put on their blindfolds as soon as a guard bangs on the door of the cell, and when being led to the toilet, the recreation yard or the visiting room. A feature peculiar to Fusileros Navales is that the guards themselves wear hoods with slits only for their eyes. This includes the armed soldiers watching the recreation yard and those standing behind the prisoners while they talk to their visiting family through a mesh-covered hole in the wall (30 cm by 30 cm).*

The constant tension and unhealthy conditions create or aggravate health problems among the prisoners, in particular asthmatic conditions. These prisoners, some of whom have spent several years at Fusileros Navales**, are also affected by the proximity of the interrogation and torture rooms: the screams of people being tortured are often heard during the night in all cells. In the words of a released prisoner (1978): "It is very common that when the orderly is busy giving out pills (to the sick prisoners), he may have to run off to the torture room to attend to a prisoner who has had a serious attack".

At the end of 1978, several prisoners were transferred to the military high security prison in the town of Libertad. At the same time, Amnesty International received reports that the prisoners remaining at Fusileros Navales were allowed to spend more time outside their cells.

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* The interpretation of this peculiar feature is that it is done so that guards should not later be recognized by the prisoners, and/or so that no human contact should be allowed to build up between guards and prisoners.

** For example: Manuel Vidarte (3 years), Sra de Ambrosis (6years), a woman doctor (5 years).

The "Hostages"

A special situation is faced by nine male political prisoners*, all leading members of the Movimiento de Liberación Nacional (MLN - Tupamaros) and all of whom are undergoing trial proceedings. On 7 September 1973 they were transferred from the Penal de Libertad to different military barracks in the interior of the country. They have been moved on several occasions but they are continously held in isolation from other prisoners and in extremely harsh conditions. At times some of them have been held in a kind of underground, unused water cistern. These conditions have affected the mental health of at least two of these prisoners (Mauricio Rosencoff and Henry Engler). They all have physical health problems due to poor food, lack of proper sanitary conditions, lack of sunshine, etc.

The authorities claim that the irregular conditions of detention are for "reasons of security" but have provided no further details. Other sources say that these nine men are "hostages" who would suffer the consequences if the MLN resumed any activities. A former Uruguayan military officer reported to Amnesty International in 1979 that in 1975 he saw on the noticeboard of Batallón de Infantería 4 in the town of Colonia, where one of the group, Raúl Sendic, was then being held, a permanent written instruction that the officer on duty should immediately shoot Raúl Sendic if there was ever an attack on the regiment.

In similar circumstances, two groups of women prisoners were also removed from the prison and placed in various military barracks throughout the country. Although their detention conditions were far from satisfactory, the women were kept in pairs and their general situation was less harsh than that of the male prisoners. They were all returned to Punta de Rieles prison in 1976.

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* Henry Engler Golovtchenko (32), Eleuterio Fernández Huidobro (40), Jorge A. Manera Lluveras (50), Julio Marenales Saenz (49), José Mujica Cordano (47), Mauricio Rosencoff Silvermann (46), Raúl Sendic Antonaccio (53), Adolfo Wassen Alarniz (35), Jorge Zabalza Waksman (36).

CIVIL PRISONS

Among the long-term prisoners at present held in the Penal de Punta Carretas and the Jefatura de Policía are members of the Groups for Unifying Action (GAU), the Uruguayan Communist Party (PCU), and 20 military officers, among them General Liber Seregni, a candidate for the presidency in the last parliamentary elections (1971). In 1978-79, four leading members of the traditional Blanco party were also held in the Jefatura. Prisoners who have been committed for trial are allowed weekly visits by family and lawyer, books and a radio, but no newspapers.

Penal de Punta Carretas

The Penitentiary of Punta Carretas, situated in a residential area of Montevideo, was built in 1910 as an ordinary prison. In 1969 a special section was created for political prisoners. Conditions are reported to be materially poor: the buildings are old and in need of repair (broken windows, defective waterpipe system); sanitary conditions are inadequate (there is only one shower for 100-200 prisoners); and there is serious overcrowding (cells intended for one person may be occupied by up to five or six prisoners). These conditions, which in themselves represent a health hazard, are exacerbated by the inadequate facilities for medical treatment, which to a large extent depends on the medical knowledge of the prisoners themselves and medicines provided by their families.

The general atmosphere is reported to be considerably more humane in these civil penitentiaries, which come under the administration of the Director of Penal Institutions, than in the military prisons. However, here too, prisoners undergoing trial have been subjected to illegal transfers to military barracks or other torture centres for further interrogation and torture.*

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* For example: Walter Argüello, F. Gallardo, Raúl Rezzano, Jaime Pérez, J. Fonseca, Luis María Bazzano, Juan Verdum, Daniel Estela, Samuel Guristem, Enrique Rubio, Jessie Enríquez (3 times), Celestino Amaya, Roberto Pineyro. All these, except Pérez, Bazzano and Fonseca, who were transferred to a military prison, returned to Punta Carretas with clear marks of torture (1974-78).

Luis María Bazzano was removed from the Jefatura during a visit of inspection by the International Committee of the Red Cross in 1976. As of April 1979 he continued in detention, despite a judge's release order and his family's payment of bail.

In April 1978, trade union leader and teacher, Ricardo Vilaró, was kidnapped by naval personnel on the doorstep of the Jefatura as he was being released after 4½ years' imprisonment. The presence of personnel from Fusileros Navales can only have occurred with the connivence of the Chief of Police who reportedly witnessed the abduction.

El Cilindro

Until 1975 a roofed sports stadium in Montevideo, El Cilindro, was used almost exclusively for short-term detention under the emergency legislation Medidas Prontas de Seguridad. The number of detainees held at any given time varied between 20 and 100. Most of the detainees were trade unionists but the editor and other journalists working for the weekly magazine Marcha (banned in 1974) and the Christian Democrat Senator, Juan Pablo Terra, have also been held there. Although conditions were materially poor and fairly primitive in the Cylinder, the detainees considered it to be the best place of detention. There was comparative security from abuse of authority; visits by family and even friends were frequent; the detainees could move around freely within the stadium and could also cook their own food brought by their families.

The system of using separate detention centres for preventive detention under emergency legislation, as established in the Uruguayan Constitution, Article 168 (17), fell into disuse as political imprisonment, illegal detention procedures and torture became increasingly widespread. Following the dissolution of the elected Parliament in June 1973, the constitutional provision for communication to Parliament within 24 hours of such detention and the option of exile instead of imprisonment became less and less respected. At present, the Prompt Security Measures are cited as a routine, retroactive, explanation for all arrests and cases of incommunicado detention which, illegally and unconstitutionally, precedes the committal proceedings before the military examining magistrate.

MILITARY PRISONS

Establecimiento Militar de Reclusión No. 1 (E.M.R. 1), also known as the Penal de Libertad, is situated outside the town of Libertad in the Province of San José, 53 km from the capital, Montevideo.

Originally built as a model prison for ordinary prisoners, who are now held in another establishment nearby, E.M.R. 1 was inaugurated on 1 October 1972 as the largest detention centre for male political prisoners, and falls under the authority of the General Command of the Army. It is a high security prison with one central five-storey concrete building on pillars, containing 500 cells. Five barracas (barrack buildings) were added later and these hold between 70 and 80 prisoners each. The prison is surrounded by a double wire fence and there are towers every eighty metres with guards armed with machine guns. Trees surrounding the prison have been cut down within a radius of two kilometres.

The 1330 prisoners at present held in the Penal de Libertad are guarded by 500 military personnel from all three branches of the services, including the administrative personnel. The guards serve only one month at the prison, reportedly in order to prevent prolonged contact between them and the prisoners.

Conditions vary considerably according to where in the prison the person is held. Prisoners in the barracas enjoy the best conditions with 35-40 men in one communal room and more access to work and recreation. In the main building, on four of the floors, which are divided into two sections (A and B), there are two prisoners in each cell. They are normally allowed out of their cells to work within the prison and for recreation. The prisoners in section B on the second floor, who are all held in individual cells, are not allowed out of the cells except for short periods of recreation which are often cancelled due to weather conditions or as a punishment.

Most prisoners who arrive at the Penal have spent several months in a military unit where they have been held incommunicado and subjected to maltreatment. The people arrested in October/November 1975 and charged with supporting the Uruguayan Communist Party began arriving at the Penal only at the end of July 1976 when they had been charged and committed for trial (procesados). Until 1974, on arrival at the Penal, prisoners were reportedly made to run between rows of soldiers who tripped them up and beat them when they fell. All prisoners are locked up in their cells when a new prisoner arrives. The prisoner is thoroughly searched in all body cavities, his hair is shaved and he is dressed in a grey prison uniform with a number and a coloured ribbon which denotes the section of the prison in which he is held. From then on he will be referred to as a number, even in dealings with his family. This treatment appears to be a distorted application of Rule 100 of the prison

regulations which refers to "inscription, undressing, bath and careful search of his body". The next stage is officially justified as the need to observe and study a prisoner for a few days before he is assigned to a prison floor. During this period some prisoners are in fact locked up in the isolation and punishment cells in the so-called "island" (La Isla).

Originally the main building was intended for individual cells to be used for rest and sleep. Each cell is now used by two prisoners who work, eat and spend most of the day there. The cells measure 3.4m x 2m, and have concrete walls, one barred window, and an iron door with a cell window (ventanilla de chapa) measuring 20cm x 20cm through which food is passed. Inside each cell there is an iron bunkbed, a small table and a concrete bench, a washbasin and a taza (bucket). There is often a shortage of water, particularly in the summer.

Until 1975 the prisoners were woken by a siren at 6 a.m. and ordered out of their cells to be counted. At night they were counted again. The lights are switched off at 9 p.m. One hour's recreation out of doors is allowed depending on the weather and the prisoner's good conduct. Each sector has its recreation period at a different time. Food was earlier reported to be of an acceptable quality but insufficient in quantity. During 1978 and 1979 the food is said to have deteriorated in quality and to contain hardly any meat. It is prepared by the prisoners themselves in the prison kitchens which were originally built to cater for only about 500 prisoners. The lack of heating makes the concrete building very cold in the winter. The prisoners are in charge of cleaning the premises. They are allowed one shower per week and they have their heads shaven twice a month.

Prisoners who are allowed to leave their cells can work, without any form of payment, in the kitchen, the quinta (vegetable garden), and the administrative, medical or dental services. In their cells they can make products of artesanía. Those who cannot leave their cells are sometimes allowed to make leather goods, etc. with simple tools, which are removed in the evening.

There was originally a good library of some 3000 volumes, most of them donated by the families of prisoners. In 1974, the prison authorities began to "purge" the library by removing and even burning books on history, sociology, economics, mathematics, certain classical literature, novels by authors of a Marxist tendency (who had previously got past the censor) and the journals, Courier (UNESCO) and Readers Digest. Neither dictionaries nor the study of languages are allowed.

Prisoners who are themselves medical doctors or dentists are in charge of medical and dental care. Medication, however, can be given only by the medical service of the Penal. Seriously ill prisoners are transported to the Military Hospital (Hospital Central de las Fuerzas Armadas) in Montevideo. Transportation reportedly takes place in totally unsatisfactory conditions. The prisoners

travel in armoured lorries without ventilation and with their hands and feet tied, however delicate their state of health. During 1978 several prisoners at the Penal died from illnesses which, it is believed, had not been treated properly.* Several other prisoners were released before the expiry of their sentence only to die from terminal illness shortly afterwards.** In 1979 there were reports of cases of leprosy in the Penal.

Correspondence is very limited and subject to censorship. One forty-five minute visit by immediate family is permitted every fortnight. These visits take place in special halls with long concrete tables and benches. The prisoners are separated from their families by a pane of glass and they talk to them by telephone, except for children under five years of age who can remain with their father. The conversations are monitored, at least intermittently, from a switchboard and can be cut off if the conversation goes beyond family matters. This may lead to the suspension of the visits or even to a spell in the punishment cells. On leaving the room at the end of the visits, the families are allowed to briefly kiss the prisoner, watched by the guards. The families, children included, are searched on arrival and children under five are picked at random for a second search on leaving. Visits allowing other physical contact take place only once a year, at Christmas. Travel to the Penal involves considerable cost for the families, whose breadwinner is imprisoned.

Defence lawyers can only speak to their clients under the same conditions as the families. It is alleged that telephone conversations are recorded, a practice which violates internationally recognized norms for legal defence as well as Uruguayan Penal Legislation which states that all conversations between a prisoner and his lawyer should be confidential.

Penal de Libertad is, in many ways, a modern high security prison and it does have certain facilities for the prisoners and is regarded with a certain pride by the Uruguayan authorities. For those prisoners who have spent many months in incommunicado detention, deprived of their most fundamental legal safeguards, transfer to a prison is without doubt an improvement. To the families it is also a great relief since it means that they know where their relative is and they are also able to make visits. However, there are numerous allegations of harassment and abuses of authority against prisoners. These harassments serve to humiliate and "depersonalize" the prisoner, instead of achieving the constitutional aim of promoting "re-education, aptitude for work and crime prevention".*** Harassment occurs mainly in connection with

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* E.g. Mirtho Perdomo Sosa; Roberto Barbeito Filipone.

** E.g. Manuel Toledo; Antonio Denismar Fachelli Márquez.

*** In this discussion on prison conditions, it should, of course, be borne in mind that the majority of political prisoners in Uruguay are detained in violation of the Universal Declaration of Human Rights, the American Convention on Human Rights and the International Covenant of Civil and Political Rights.

disciplinary measures, to which reference has already been made. Punishments are reportedly given for the slightest reason (such as for nodding to or exchanging a word with a prisoner from another sector; delay in obeying an order, etc.). It is alleged that sanctions alternating with "privileges" are used to pressurize prisoners into collaborating or informing.

In a separate building called "La Isla" (Pabellón de Exclusión Temporal), about 50 metres from the main building, there are around 20 punishment cells, all small, individual and without windows. Some have double doors, a concrete bunk and a hole in the floor which serves as a toilet. A mattress is provided between 9 p.m. and 6 a.m. The light is kept on night and day and there is no running water. Some prisoners are taken to these cells on arrival at the prison and others may spend from 15 to 90 days in them as part of a punishment. They are held in isolation, without reading material or tobacco. One prisoner was reportedly found hanged in his cell in "La Isla" in 1974.*

A major cause for anxiety and insecurity is the lack of safeguards against illegal transferral to a military barracks for renewed interrogation and torture. This may take place in spite of the fact that the prisoner is already undergoing trial and is therefore under the protection of a military judge. Such transfers may take place without the knowledge of the judge or with his connivance (see cases quoted earlier). It is believed that this insecurity is a contributory factor in the number of suicides that have occurred at the Penal.** Prisoners are transferred in vehicles belonging to the military unit. One prisoner brought back in April 1978 from such an interrogation suffers from partial amnesia concerning that period.***

Establecimiento Militar de Reclusión No. 2 (E.M.R. 2), also known as Penal de Punta de Rieles, is situated 13 kilometres from Montevideo. Punta de Rieles also falls under the authority of the General Command of the Army. It was initially used for male prisoners but since 16 January 1973 has been used exclusively for female prisoners.

The prison is surrounded by several wire fences, with guards armed with machine guns placed in towers at intervals of 80 metres. The external guards are all military personnel accompanied by police dogs, while the guards who are in direct contact with the prisoners belong to a new corps of military policewomen (Policía Militar Feminina).

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* José Artigas

** Víctor Hugo Padilla, Rodolfo Fernández Cúneo

*** Washington de Vargas Saccone

The prison regulations and regime are largely similar to those at the Penal de Libertad. There is a special category of prisoners who are held under a harsher regime than others. One hour's recreation is permitted depending on good conduct and the weather conditions. The female police guard is changed regularly. It is reported that the relations between women prisoners and their guards are more strained than those between male prisoners and their guards.

The prison consists of a two-storey building and two barracas, all without heating. The first floor of the main building has three sections - A, B and C. In section A there are two cells 6m x 10m with 10 double bunk beds in each. In section B there is one cell 10m x 15m with 15 bunk beds and four smaller cells which can hold up to 4 prisoners each. Section C is an old chapel with two rows of bunk beds for about 40 prisoners. In the four cells on the second floor, there are up to 48 prisoners. In each of the barracas, there are about 120 prisoners in two different sections. While at first being in the barracas was considered a privilege, they are now the most overcrowded part of the prison.

The day starts at 5.30 a.m. The prisoners have 15 minutes to dress and put their cells in order. Breakfast of milk and bread is served after the prisoners have been counted and respects have been paid to the flag. Some detainees work in the kitchen, which is modern and provides food for about 500 prisoners and guards. Others may work (without pay) in the field, vegetable garden or on the farm. Prisoners work in groups of 30 people, supervised by a military policewoman equipped with a long wooden truncheon, and guarded by between two and eight armed soldiers.

Until the beginning of 1976 the prisoners had a workshop where they could use sewing and knitting machines to mend their clothes and make things for their families, or in order to buy provisions in the canteen. The workshop was closed without explanation and replaced later in the year by a system whereby the prisoners could carry out paid work for a company which exported leather goods. Any money earned under this scheme was originally stated to be for the prisoner to use as she wished. However, such earnings, although minimal, reportedly have to be spent in the canteen shop. There have been reports that prisoners, including those in a precarious state of health, have been forced to do very heavy work, such as masonry.

One prisoner*, a journalist in her sixties, suffered a heart attack in 1978. The authorities have officially claimed that she had a congenital heart condition while other well-informed sources deny that she had a heart problem before her imprisonment and say that her heart attack was the result of 5½ hours' digging on a very hot day. In protest, other prisoners refused to work in the field, for which they were punished by having family visits cancelled and all correspondence stopped for a period of two months. The sick prisoner has since received adequate medical treatment and no longer has to do forced labour.

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* Rita Ibarburú

Visits by close family are allowed every two weeks for half an hour. The visitors are separated from the prisoner by a thick wall with a small mesh-covered opening. Guards listen to the conversation on both sides of the wall. Visits permitting physical contact are rare.

There is a library, administered by the prisoners themselves, with censorship similar to that in Penal de Libertad. Books on philosophy, politics, economics and psychology are forbidden.

The women are carefully body-searched on arrival, their hair is cut very short and birthmarks and other distinguishing features are noted. The women are given a uniform and a number, by which they are known from that point on. Disciplinary measures are taken for all forms of misbehaviour (e.g. delay in obeying orders, breaking the silence rule, lack of respect towards visitors to the prison). Two such misdemeanours can lead to a period of incommunicado detention lasting from 1 to 20 days. Lack of respect, failure to answer an official's question, making a collective complaint to the authorities, refusal to eat, any one of these may lead to a period of incommunicado detention lasting from 46 to 60 days according to the prison regulations.

Sanctions appear to be given in an irregular and unsystematic fashion which leaves the prisoner uncertain of what is or is not forbidden. This is further aggravated by the practice of not informing the prisoner of the reason for her punishment. Such uncertainty and other forms of harassment are reported to have led to nervous conditions and depression among the prisoners.

The Military Hospital

Seriously sick prisoners are transferred to the Armed Forces' own hospital, the Hospital Central de las Fuerzas Armadas. The regime in the ward reserved for political prisoners is extremely severe, i.e. the prisoners are not allowed to speak to each other, and for the first three months they are not allowed any visits. Amnesty International has also received several reports of neglect on the part of the medical staff, which in some cases is alleged to have led to a patient's death from an illness which could have been cured or improved with proper diagnosis and treatment. Some reports indicate that medical resources have increased recently in the Military Hospital.

CONCLUSION

Article 26 of the Uruguayan Constitution provides that: "In no case shall brutal treatment be allowed in prisons; they shall be used only as a means of assuring that convicts and prisoners are reeducated, acquire an aptitude for work, and become rehabilitated".

Penitentiary laws and regulations provide for correspondence, visits, the right to consult defence counsel in private without the presence of guards, separation of unconvicted and convicted prisoners (procesados and penados), the right to be called by name and not by number, and several other regulations that maintain the spirit of the Constitution. The Penal Code and the Law of National Security also provide for the punishment of any member of the prison administration who violates any of these provisions.

Prison conditions acquire a particular importance in a country where the penal system has very little provision for granting liberty pending trial, and which, at the same time, is characterized by exceedingly slow trial proceedings which entail several years' imprisonment before the final verdict is pronounced.*

As the Uruguayan Penal System provides for full legal safeguards, adequate conditions during detention and imprisonment, including provision for payment for work in order to facilitate the readaptation to society and life after release, other reasons must be sought to explain the conditions under which political prisoners are held. Both the illegal long pre-trial detention, which violates the Uruguayan Constitution (24 hours) and an executive decree of 1972 (ten days), and the system of insecurity and harassment which exists in some prisons are a reflection of the political situation within the country. The atmosphere of internal war and the anti-subversion and anti-communist crusade on the part of the Combined Forces which has existed in Uruguay for over half a decade makes itself felt inside the prisons. Many of the guards see, or are made to see, the prisoners as the enemy, albeit captured. This theory would appear to be borne out by regular reports in recent years of increasing harassment whenever political events take place, either inside or outside Uruguay, which affect the political stability of the country. It is thus evident that the judicial and penitentiary system in Uruguay lack independence from the political authorities, i.e. the Armed Forces.

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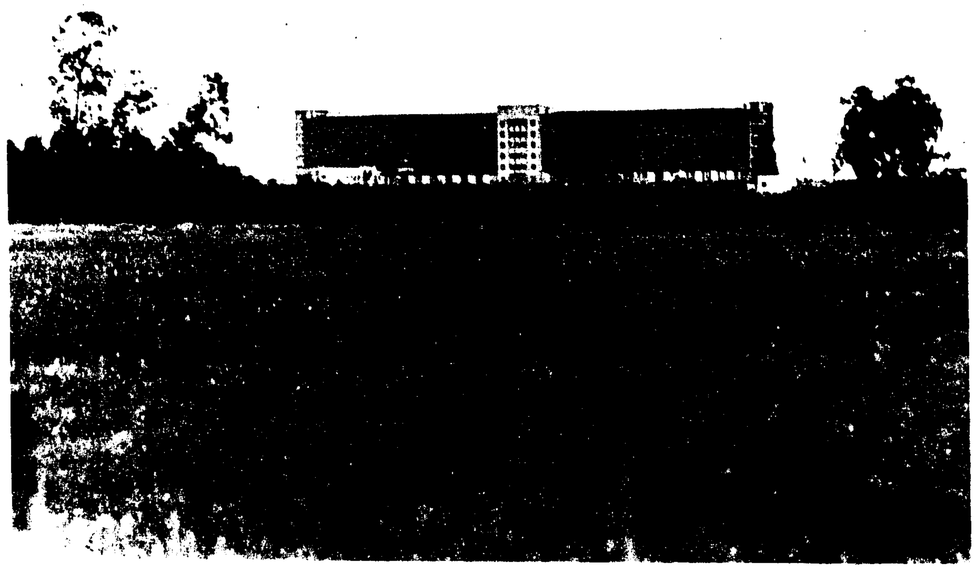
* According to official Uruguayan sources (1978), 72% of the prisoners held under ordinary criminal law have not been sentenced. Although no official or complete statistics are available for political prisoners, it appears from information available that the percentage of sentenced political prisoners could be considerably lower than 28%.

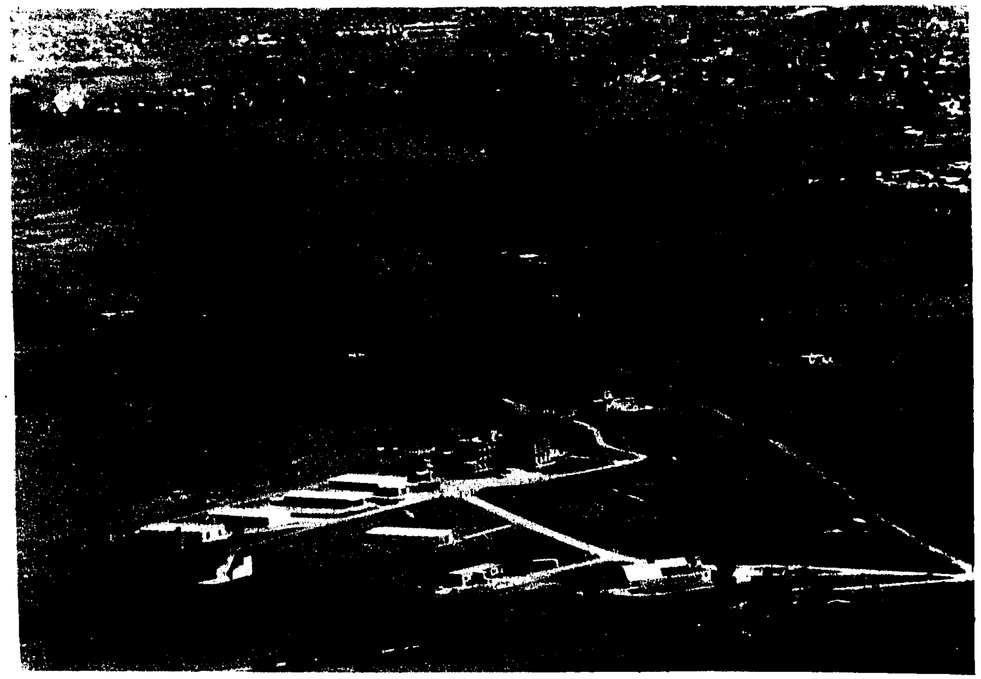
APPENDIX

International Instruments

Uruguay is a party to the following international or regional agreements in the field of human rights: the International Covenant of Civil and Political Rights and its optional Protocol (ratified by Uruguay on 11 July 1969); Freedom of Association and Protection of the Right to Organize Convention (No. 87); the Right to Organize Collective Bargaining Convention (No. 98); both ratified by Uruguay on 18 March 1954; Convention Relating to the Status of Refugees and Protocol, both ratified by Uruguay on 14 October 1969. Uruguay has signed the Universal Declaration of Human Rights (1948) and the American Convention on Human Rights (1969) and voted for the American Declaration of the Rights and Duties of Man (1948). Uruguay is also bound to respect the UN Declaration on the Protection of All Persons from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1975) and the Standard Minimum Rules for the Treatment of Prisoners (1957).



Establecimiento Militar de Reclusión No 1, or Libertad prison, for male political prisoners.



Establecimiento Militar de Reclusión No 2, or Punta de Rieles prison, for female political prisoners.

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LAW AND JUSTICE FOR POLITICAL PRISONERS IN URUGUAY

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LAW AND JUSTICE

FOR POLITICAL PRISONERS

IN URUGUAY

Introduction

Political events in Uruguay since 1968 and, in particular, since 1973 have led to important changes in the legal system of the country. These changes affect the Uruguayan Constitution of 1967, the theoretical basis and practical implementation of the laws relating to political imprisonment, and the role and functioning of the judiciary. The Uruguayan Constitution and the international human rights instruments to which Uruguay is a party* provide for protection against arbitrary arrest and for basic safeguards for any citizen deprived of his liberty; an arrest can only be made by written judicial warrant if there is prima facie evidence, unless the person was caught in flagrante delicto; the person must be brought promptly before a judge who shall decide whether there is a basis for prosecution or who otherwise shall order the person's release; torture or other cruel, inhuman or degrading treatment is prohibited; the right to habeas corpus is guaranteed; other provisions, including the right to compensation for unlawful detention, punishment of a public servant responsible for abuses of authority against detainees, etc.

Most of the legal provisions affecting human rights are interrelated and interdependent in as far as their proper implementation is concerned. So, for example, safeguards which in theory still exist within recent legislation are made ineffective by the lack of the corresponding machinery to implement them. Legal provisions, even new ones, are generally either flouted in practice or through pseudo-legal interpretation. There is well-documented evidence of malpractice by law enforcement agencies in Uruguay during the 1970's, which violates accepted standards of international law for the protection of human rights. It is also evident that the laws and decrees themselves violate most international instruments and agreements in the field of human rights to which Uruguay is a party, notably the International Covenant of Civil and Political Rights, ratified by Uruguay in 1969. Some laws affect the rights of all citizens of the country, e.g. the rights to participate in political life, while others are more specifically related to imprisonment for political reasons.

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* Uruguay is a party to the following international or regional agreements in the field of human rights: the International Covenant of Civil and Political Rights and its optional Protocol (ratified by Uruguay on 11 July 1969); Freedom of Association and Protection of the Right to Organize Convention (No. 87); the Right to Organize Collective Bargaining Convention (No. 98), both ratified by Uruguay on 18 March 1954; Convention Relating to the Status of Refugees and Protocol, both ratified by Uruguay on 14 October 1969. Uruguay has signed the Universal Declaration of Human Rights (1948) and the American Convention on Human Rights (1969) and voted for the American Declaration of the Rights and Duties of Man (1948). Uruguay is also bound to respect the UN Declaration on the Protection of All Persons from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1975) and the Standard Minimum Rules for the Treatment of Prisoners (1957).

Medidas Prontas de Seguridad (MPS)

The Uruguayan Constitution vests in the President the power to take "prompt security measures in grave and unforeseen cases of external attack or internal turmoil" (Art. 168:17). This provision to some extent corresponds to the "state of emergency" or "state of siege" in other countries. The President's power is, however, regulated by strict safeguards: the reason for MPS as well as any individual arrest made under this provision must be communicated to the General Assembly within 24 hours and it is up to the General Assembly to decide whether these measures are justified. With regard to individual citizens, this provision only permits their arrest or transfer from one place to another unless they "opt to leave" the country. They may not be detained in places intended for the incarceration of criminals.

From 1968 onwards, the Prompt Security Measures were extensively used by the governments of Jorge Pacheco Areco and Juan Bordaberry to deal with social unrest, in particular the widespread strikes that occurred in the early period.

On three occasions the General Assembly lifted the Prompt Security Measures (MPS) but on the second occasion the Executive reinstated them within two hours. On the last occasion, the Permanent Commission, which acts for the General Assembly during the parliamentary recess, ruled against the MPS and although the Executive did not heed the ruling, the General Assembly failed to act on this question.

Detainees held in administrative detention without trial under MPS were normally taken to the roofed municipal sports stadium in Montevideo, called El Cilindro (The Cylinder). The length of detention ranged from a few weeks to a few months. Although conditions were materially poor and the stadium at times became overcrowded, detainees considered the stadium a more humane and much safer place of detention than others. Maltreatment of this category of detainees was exceptional until 1973-74, when they too began to be maltreated either before they had arrived at El Cilindro, or after removal for a period during their detention there*.

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* The following are examples of such cases:

Ariel Ganz: Student, arrested 14 November 1974, taken to El Cilindro. Removed to Artillery Regiment No. 5 on 15 November 1974 where he was tortured for several days (54 hours plantón, no food, verbal abuse - especially anti-semitic, submarino torture). He was returned to El Cilindro on 13 December and released on 16 December. His parents' request for habeas corpus was not acted upon.

Alcides Lanza: Trade union leader, aged 45. Arrested on 15 November 1974, tortured at the Second Department of Police and then transferred to El Cilindro on 17 November. He was unable to walk. The police doctor diagnosed him to be in a state of complete trauma and in need of medical attention. A detained doctor and professor of medicine made a detailed diagnosis of the injuries to his head, chest, abdomen and limbs.

The prolonged use of emergency legislation over many years has created two parallel systems of political detention, one under civilian (later military) justice and one under the Executive. While abuses, such as maltreatment and failure to act on habeas corpus, did occur during the period 1968-73 and the General Assembly did not always make full use of its power of control over MPS, it was not until after the executive decree of 27 June 1973 ordering the dissolution of the elected legislature that the application of MPS developed into a system of serious violations of human rights. The elected legislature acted as a constitutional safeguard against arbitrary arrest under MPS. Since June 1973 there has been no elected legislature, only a 25-member body, the Council of State, whose members are designated by the Executive. Despite the responsibility of this body to "control the action of the Executive with regard to the respect of the rights of individuals and in compliance with constitutional and legal norms"*, the Council of State has not yet questioned the justification of MPS, nor do its members seem concerned that they are not informed of administrative detentions, either at all, or only a long time after the event.** The other constitutional guarantee for citizens detained under MPS is the option of exile. This has frequently been denied in individual cases.*** At the end of 1974 the option was temporarily suspended de facto without a formal decree.****

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* Decree 464/973 of 27 June 1973.

** The International Commission of Jurists-Amnesty International mission in 1974 was able to see this failure in the case of General Liber Seregni, arrested on 9 July 1973. As trial proceedings had not begun, he applied to go into exile on 5 January 1974. On 11 January trial proceedings began, thus depriving him of the right of exile. On 5 March 1974, the President informed the Council of State that General Seregni had been detained by the General Command of the Armed Forces under Article 168 (17). This was reported in the official journal of 26 March 1974. The President of the Council of State admitted to a mission of jurists in December 1977 that the Council was often not notified for months of such administrative detentions.

*** Apart from the case of General Seregni, that of David Cámpora serves as an illustration. Following the civilian judge's release order in May 1974 he remained in detention under MPS. He then requested permission to go into exile in Germany, as he had a German visa and his wife and children were already living there. Although he had a ticket, he was not released for three years, and then a new lawsuit was brought against him, based on the same charges as an earlier one.

**** This followed the so far unsolved murder of the military attaché at the Uruguayan Embassy in Paris, Colonel Ramón Trabal. A written note attributed the murder to a hitherto unknown group, whose name indicates left-wing orientation. Other observers believe that it may have been a sectarian killing by rival factions of the Armed Forces.

Although the Uruguayan Constitution in no way denies the right of habeas corpus in cases of administrative detention under MPS, the Government's practice is to claim that habeas corpus is not applicable to this category of detainees. Complaints by international human rights bodies regarding illegal and lengthy pre-trial detentions invariably receive the answer that the person was detained "at the disposal of the Executive power under the system of Prompt Security Measures".

While earlier there was a fairly clear distinction between persons detained under MPS and persons detained for interrogation with a view to obtaining a confession or prima facie evidence for prosecution, this distinction has become increasingly hazy in the past few years. The picture which emerges from numerous reports of individual arrests and from the study of the equally numerous complaints made to human rights bodies, including the Uruguayan government's own comments on these complaints, is that the "detention under MPS" is used as a routine explanation for an unconstitutionally long period of pre-trial detention (in conditions which are also unconstitutional) and that this period is used for interrogation of the detainee in order to obtain under duress sufficient information to form the basis for prosecution.* This use of MPS limits even further the right to habeas corpus.

Habeas Corpus

Article 17 of the Uruguayan Constitution provides for the writ of habeas corpus and makes the judge's ruling prevail over the arresting authority.** This legal safeguard is, however, seriously affected by the extended use of administrative detention as an explanation for detaining a person for more than 24 hours prior to bringing him before a judge. The judges then fail to demand that the "body be produced" although the person may be held in incommunicado detention in a place unknown to the family and defence counsel. The judiciary fails to take effective action on the writ of habeas corpus in another respect also. The civilian judge, under whose prerogative habeas

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* The lawyer Gualberto Trelles was arrested on 23 October 1975. According to the Uruguayan Government's reply to the IACHR, he was first detained under MPS and "later placed at the disposal of Military Examining Magistrate No. 1 who decided to indict him under Article 60 of the Military Penal Code". (Inter American Commission on Human Rights)

Medical doctor, Luis Carlos Fierro Berro, was, according to the Uruguayan Government, arrested on 22 October 1975 and interned under MPS. On 22 June 1976, he was placed at the disposal of Military Examining Magistrate No. 1.

** Article 17 of the Uruguayan Constitution: In the event of unlawful detention, the interested party or any other person may apply to the competent judge for a writ of habeas corpus to the end that the detaining authority shall immediately explain and justify the legal grounds for such detention, the decision of the aforementioned judge being final.

corpus remains, declares himself satisfied as long as the person is stated to be under judicial authority, namely the military courts, without taking into account what a precarious safeguard this is in a situation where the judiciary is subject to military hierarchy and where there is no clear separation between the military judicial authorities and the Executive, i.e. the Armed Forces.

Military Justice

I. Legislation

Military jurisdiction over civilians, which runs against the legal tradition in Uruguay, was first introduced by the declaration of a State of Internal War on 15 April 1972.* Other types of emergency legislation had been extensively used since 1968. On 10 July 1972, the General Assembly approved a new "Law of State Security and Internal Order", No. 14,068, which resulted in the lifting of the State of Internal War. Persons arrested between April and July were subject to military courts but were tried under ordinary criminal law. However, those arrested before April remained under ordinary justice. In December 1975, a new law** was decreed which retroactively brought anyone accused of crimes against the security of the state under military justice, whatever the date of the offence, and even though sentence may have already been passed.

The Law of State Security incorporated certain crimes from the Ordinary Penal Code relating to the "association to commit a crime" in various degrees where sentences tend to remain relatively low (a maximum of five years with a possible increase of one third). It also created new crimes against the security of the state, called de lesa nación, which were considered "military" crimes and were therefore tried by military tribunals. The following articles are those most frequently applied to civilians: attack on the Constitution (10-30 years); subversive association (6-18 years)***; assistance to the association (2-8 years)***; assisting members of a subversive association (18 months to 4 years); association usurping public authorities (2-12 years); assistance to association usurping public authorities (20 months to 6 years).

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* The immediate cause of this declaration was the killing of four policemen on 14 April by the MLN-Tupamaros. The policemen were allegedly members of a death squad responsible for the killing of MLN members in February 1972. The following day the police shot dead several MLN members.

** Law 14,493 of 29 December 1975.

*** By Law No. 14,619 of 23 December 1976 the minimum sentence was reduced to 3 years and 24 months respectively.

Another charge from the Military Penal Code which has frequently been used against civilians is based on "crimes which affect the moral strength of the Army and the Navy". The articles refer to "lack of due respect for the flag" or other national symbols; failure to adhere to the republican democratic system; "mere criticism" of the branches of the Armed Forces when such criticism "has the aim of attacking the institution in itself and not to correct its defects".

It would appear that the application of military laws and military tribunals to civilians violates the Uruguayan Constitution (Article 253) which even provides for civilian courts for military personnel when they are accused of common offences.* However, following certain changes in the composition of the Supreme Court of Justice in 1974, it ruled, by three votes to two, that the Law of National Security was not unconstitutional.

In order to appreciate the scope of this new legal situation, it is also important to consider what kind of offences give cause for the charges under military law. A few examples will suffice as illustration. In Uruguay, as in many other countries with a democratic structure of government, the charge of subversive or illicit association used to refer to armed groups operating outside the legal and parliamentary system. Since the banning of 14 political parties and groups in 1973**, members and supporters of these groups are liable to prosecution under this charge (i.e. a clearly ideological offence). While in theory the retroactive nature of this law is not explicit, it appears that in practice it is retroactive.

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* Article 253 of the Constitution: Military jurisdiction shall be limited to military offences and to a state of war. Common offences committed by the military in time of peace, regardless of the place in which they are committed, shall be subject to the ordinary courts.

** By Decree 1.026/973 of 28 November 1973, the President, "acting in the Council of Ministers and favourably advised by the Council of National Security", declared that: The following political parties and student groups be dissolved and declared "illicit associations": Communist Party, Socialist Party, Popular Union, 26th of March Movement, Uruguayan Revolutionary Movement, Revolutionary Communist Party, Agrupaciones Rojas (Red Groupings), Union of Communist Youth, Workers' Revolutionary Party, Uruguayan Federation of University Students (FEUU), Worker-Student Resistance (ROE), Revolutionary Students' Federation (FER), Groups of Unifying Action (GAU) and Self-Defence Groups (GAD). This decree also ordered the closure of their offices, confiscation of property, closure of newspapers, and eliminated those parties which had representation in the General Assembly from the electoral register.

The text of the decree banning the national trade union movement (the National Workers Convention - CNT) in June 1973 clearly indicates that the leading members of the CNT were liable to imprisonment for activities which, up till then, had been legal and protected by the Constitution, as well as by international conventions to which Uruguay is a party. The next decree affecting trade union freedom came a few days later.* It prohibited strikes and declared that instigators of strikes shall be prosecuted under the Law of National Security or as before shall be held under Medidas Prontas de Seguridad.**

The charge of "vilipendio" of the Armed Forces by an "attack on their moral strength" has been based on acts such as emphasizing the line "tyrants, tremble!" while singing the Uruguayan National Anthem (in meetings with compulsory attendance) or the distribution of leaflets on 1 May (Labour Day).***

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* Resolution 1.102/973 of 30 June 1973 declared illicit the association called the National Workers' Convention (CNT) and ordered its dissolution; prohibited its meetings, etc., closed its offices and confiscated its property; ordered the arrest of its leaders; the military and police were put in charge of carrying out these measures.

** Decree 518/973 of 4 July 1973 contains norms to prevent "anomalies in the service of employees in the private and public sector".

*** When Ruben Enrique Martínez Cuíño and Miguel Capdevilla Acosta were arrested in 1975, according to the official explanation, "they were distributing leaflets about demonstrations and disorders to be organized on 1 May offensive to the prevailing institutions". Teachers Humberto Daniel Costa Fernández and David Rabinovitch Korotky were arrested for singing the national anthem.

II. The Administration of Military Justice

The military justice procedure is divided into four stages before three different courts: the presumario and sumario before the juez de instrucción; the plenario before the juez de primera instancia; and the segunda instancia before the Supremo Tribunal Militar. In addition, the large number of arrests has made an exceptional provision in military law into common practice: the appearance before a juez sumariante as the very first stage of the investigation. The juez sumariante, who is an officer appointed by the commanding officer as the unit's summarizing judge "can only intervene in a case where the military examining magistrate (juez de instrucción) is delayed by reason of distance or for any other reason* and the intervention by the juez sumariante will be limited only to collecting essential data of the offence so that the investigation by the magistrate is not prejudiced, and it will cease as soon as the magistrate arrives, whereupon the juez sumariante will hand over the summary records (actuaciones sumariales) to him" (Article 83 of the Code on the Organization of Military Tribunals). The Code of Military Penal Procedure (Article 256) provides that the commanding officer of the unit will notify his superior "by the most rapid means possible in order that the notification through the relevant channels reaches the Minister of Defence so that the magistrate will come and continue the investigation (sumario)".

These provisions are the legal basis for this first stage, but the procedure laid down is not carried out in practice. A prolonged investigation lasting an average of 2 to 3 months (and often 6 months to 1 year) is conducted by the military unit. The arrested person is interrogated, often more than once by the juez sumariante or is at least asked to sign a "confession". If a confession or other evidence is obtained, the case is passed to the military magistrate and the prisoner's incommunicado detention is lifted. While the Uruguayan Constitution (Art. 16) only allows the judge 24 hours to take the detainee's statement and a maximum 48 hours to initiate proceedings, the Military Penal Procedure (Art. 192) authorizes the military examining magistrate to maintain a suspect incommunicado if need be "for the success of the investigation". However, it also provides that, apart from exceptional cases, this incommunicado detention cannot last for more than two days and must not prevent the accused from communicating with his defence lawyer, attending the hearing of the witnesses and communicating in writing with the prison director and the judicial authorities. Under decree 419/973 of 12 June 1973, persons detained for "alleged subversive activities" must be brought before a competent judge or released within ten days of arrest. Even this decree appears never to have been applied in practice.

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* If, for example, a military crime is committed on a ship at sea.

It is during this first stage of incommunicado detention that illtreatment most frequently occurs. In general, it is not alleged that the juez sumariante takes part in or attends the illtreatment, although he must be fully aware of it. The first session of illtreatment usually takes place before the first interrogation by the juez sumariante and continues until the detainee indicates that he is prepared to make a confession. If he then fails to do so before the juez sumariante, another session of illtreatment occurs before he is re-interrogated, and this procedure continues until he makes a confession. A certain number of prisoners of the many thousands who have passed through military barracks are released without further intervention by a judicial authority. This system of release of suspects without the intervention of any judicial authority provides a partial explanation of the discrepancy in the numbers of prisoners given in official statistics and the estimates made by reliable sources inside and outside Uruguay.

The most common forms of illtreatment are prolonged standing (plantón), beating, and repeated immersion in water (submarino). Sometimes electric cattle prods (picana eléctrica) are applied to the most sensitive parts of the body. The victims can hardly ever identify their torturers as they are invariably hooded during the sessions and throughout most of their detention in the barracks.

The next stage is before one of the military examining magistrates (juez de instrucción) who are all officers or retired officers of the Armed Forces, usually with the rank of colonel. In 1972 their number was increased from three to six. Only one of these was a recently qualified lawyer, while two others were studying law.* The magistrate interrogates the accused and, in particular, he asks him to "ratify or rectify" the declaration made before the juez sumariante and to confirm that the signature is his own. If the magistrate finds that there is prima facie evidence (semiplena prueba) of an indictable offence, he draws up the indictment (auto de procesamiento) and he notifies the defendant. If there is no prima facie evidence, he may release the detainee on terms that he may be rearrested if any further evidence comes to light later, or he may decide on prosecution on the grounds of his own "moral conviction" (por convicción moral) that the defendant is guilty. This is a moment when theoretically the detainee can report to the judge the treatment he has been subjected to in the military barracks during his detention prior to the court hearing, which, in accordance with the UN Declaration on the Protection of All Persons from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1975) should make his confession invalid and give rise to an investigation into the responsibility for the alleged abuse of authority (Art. 10/12). Prisoners who have declared

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* This was still true at the time of the AI-ICJ mission in 1974. (Amnesty International-International Commission of Jurists)

that they have been maltreated have, however, found that it has little effect.* The judge does not declare the report made at the barracks to be inadmissible evidence, does not order an investigation and probably does not even enter it into the prisoner's dossier. Many other prisoners have felt that they could not report their maltreatment for fear of being returned to the same barracks by the Armed Forces, who disregard the authority of the military judges, or by order of the Executive, which leaves them outside the authority of the judge. Indeed, many have been firmly warned not to report their maltreatment before they leave the barracks, where they are made to sign a statement to the effect that they have been well treated while in custody.**

The authorities told the International Commission of Jurists and the Amnesty International delegation in 1974 that strict instructions had been issued to all units forbidding any form of illtreatment and that these instructions, in general, had been carried out. In a few cases where illtreatment had occurred, the culprits had been severely punished. The authorities provided no particulars of the instructions or the punishment, despite the delegates' request. The military magistrates said that they had received hundreds of complaints but had not found a single case proved. The burden of proof lies on the complainant in such cases. By contrast, the President of the Supreme Court pointed out that under ordinary justice it was not unusual for the magistrate to find a case proved against the police of ill-treatment during interrogation. This difference between the two jurisdictions is worthy of note and can probably be explained in part by the time difference: while the civilian judge would see the defendant within 24 hours and would immediately order a medical examination, the military magistrate would only see the defendant weeks or months after the maltreatment took place, thus making a medical examination pointless or of doubtful value as evidence. Identification is also made easier by the fact that the common law prisoner is not hooded during interrogation.

After the magistrate has drawn up the indictment, the defendant is asked to name his private defence lawyer, or to choose between the next civilian advocate on the roster of court-appointed defence counsel and the next unqualified military defender on a list of officers who are willing or nominated to undertake defence work. Harassment of defence lawyers who take on political cases has been such in recent

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* Jaime Gershuni Pérez made a full declaration of the torture he suffered during interrogation and incommunicado detention (1976).

Dr. Rubens Laíño reports that the magistrate laughed at him when he said he confessed to an offence he knew nothing about in order not to be subjected to further torture (1972).

** Former First Lieutenant J.C. Cooper has declared to Amnesty International in February 1979 that he saw whole piles of such signed statements in his regiment.

years that civilian lawyers, unless they are themselves in prison, have either gone into exile or no longer take on the defence of political suspects, thus leaving the vast majority of prisoners with only an unqualified military officer for their defence. In 1978/79, civilian lawyers are reported to be advising prisoners to take military counsel because they consider that a civilian counsel for defence will only have a negative effect on the military judge's verdict. This concludes the presumario, all of which takes place without the defendant having access to a defence lawyer.

Under military justice there were originally no provisions for appeal at this stage. With the introduction of the Law of State Security, it became possible to appeal when accused of crimes affecting national security. The appeal was to be well-founded and presented within three days. In the conditions under which the defence lawyer has to work, it becomes virtually impossible to study in such a short time the work accumulated over several months in a military barracks and in courts of law, comprising many hundreds of pages of statements. This appeal became ineffective for two further reasons: the prisoner was held incommunicado in a military barracks until meeting the military examining magistrate and had no access to a lawyer of his own choice. For various reasons the prisoner is often obliged, at least at first, to designate a court-appointed military defence counsel (defensor de oficio) who does not appeal the case. The appeal is presented to the Suprema Corte de Justicia Integrada, consisting of five civilian and two military members. The file circulates individually among the seven members of the Court and each one has 90 days to study the file. While the appeal is still pending, defence counsel cannot present a request for his client to be granted provisional freedom. The slowness of these proceedings, which is acknowledged by the Uruguayan Government, makes this remedy of appeal impractical except in cases where the expected sentence is very severe. Furthermore, the Court has proved not to be willing to go against the military rulers of the country and, in all but one exceptional case, has rejected the appeals.

The sumario stage takes place again before the examining magistrate's court and begins with the defendant being asked whether he "ratifies or rectifies" his previous statement to the magistrate. The question is asked in the presence of his defence lawyer, but before any consultation has taken place. The prisoner often confirms his first statement for the same reason as before: lack of guarantee that he will not be returned to barracks, although normally it is at this stage that prisoners are transferred to prison establishments (except in periods of large waves of arrests when normal prisons have been filled to capacity). When the International Commission of Jurists-Amnesty International mission asked one of the magistrates if he would act upon a confession made in the barracks but denied before him and if he disbelieved the defendant's denial, he said he would. This is in conflict with the Code of Military Penal Procedure (Art. 435) which stipulates that a confession has no legal effect unless it is made before the competent judge in the presence of the defence counsel.

During this stage, defence and prosecution can bring witnesses, present evidence and counter-evidence with a view to establishing the defendant's guilt or innocence or mitigating circumstances. This stage is conducted in writing. The magistrate may also release the defendant during this stage, either because of insufficient evidence or on bail, if the offence carries a sentence of less than 24 months. For offences involving a penalty of more than two years, release pending the outcome of the trial proceedings, which can take several or many years, is not common, even under civilian jurisdiction.* If a person is released by order of the magistrate, his effective release is very often delayed for one or two months or he may even be "retenido" (kept in detention) by the Armed Forces, thus disregarding the authority of the magistrate.

One of the most serious complaints made by the defence lawyers is that the magistrate often receives and acts on a secret report on the case supplied to him by the security intelligence branches of the Armed Forces. As the defence lawyer will never have access to this file, which one of the magistrates has referred to as the "submerged dossier" (expediente submergido), he cannot provide any evidence against the allegations made in it. The judge's decision is reportedly often based on, or influenced by, the contents of the parallel dossier, thus eroding the guarantees of the due process of law.

In the trial (plenario) before one of the five sentencing judges (jueces de primera instancia), both prosecution and defence make their case and suggest what sentence should be given. During the first period of military trials, the judges never passed sentences which were higher than the prosecution had asked for. However, after one judge passed one such sentence (ultrapetita), this soon became general practice** supported by the Supreme Military Tribunal. The prosecutors

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* According to a Uruguayan report to the United Nations 72% of the prison population held under ordinary jurisdiction are still awaiting sentence. Article 9:3 of the Covenant of Civil and Political Rights: "It shall not be the general rule that persons awaiting trial shall be detained in custody but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should occasion arise, for the execution of that judgement".

** In General Liber Seregni's case, the prosecution asked for 11 years and the judge sentenced him to 14 years (1977). In Colonel Pedro Aguerre Albano's case, the prosecution reportedly asked for 24 months and the judge sentenced him to 14 years (1978). This was made possible by the temporary removal of the judge handling the case (Colonel Spinelli) who refused to pass such a high sentence and by replacing him with Colonel Blanco Vila, who is known to have frequently passed exceedingly harsh sentences.

complained to the military command, who took no notice. This led to the resignation of several prosecutors in protest. This practice would appear to change the judge's traditional role as a kind of arbiter between defence and prosecution.

Approximately 80-90% of the cases of primera instancia are forwarded to the Supreme Military Tribunal (segunda instancia - STM) for a review of the trial. Both prosecution and defence are entitled to appeal and if the sentence is over three years, the case is automatically passed up to the STM. This second review, for more serious cases, was intended to serve as a guarantee for the defendant but, at present, the STM is passing a higher sentence than that given by the trial judge - even though the defence was the only party to appeal. Instead of the principle of "non reformatio in peius" (no change for the worse), valid in all cases where the prosecution is not appealing, the court has applied "reformatio in peius".

The President of the Supreme Military Court, Colonel F. Silva Ledesma, interprets the fact that a higher court upholds or increases the sentence passed in the lower court as showing that the judges, who in the early days were inexperienced, are now performing with professional expertise. National and international observers interpret this as further proof of the lack of independence of the military courts vis-a-vis the military rulers of the country.

The Integrated Supreme Court of Justice (including two military officers appointed by the President) has the power to quash a conviction by the Supreme Military Court by annulment (casación). However, according to the Uruguayan Government's statement to the Inter-American Commission on Human Rights in 1977, the Integrated Supreme Court has never gone against the ruling of the Supreme Military Court: "In the last five years, since the entry into force of Law No. 14,068 which defines and establishes punishment for the crimes of lese majesty (crimes against the nation), no more than 40 appeals have been processed before the court and all of them were denied. This is the most eloquent fact demonstrating that the individuals concerned have not established "illegalities" in the judgements of the Supreme Military Tribunal." Despite this policy, the Supreme Court of Justice was deprived of its title "Supreme" and several of its powers in 1977*.

One prerogative of the Supreme Court of Justice was the annual review of cases for possible early release (visita de cárceles or visita de causas). This power was suspended for the whole of 1976 by a decree law issued at the end of 1975** and was abolished completely in 1977***.

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* Institutional Act No. 8 and Law No. 14,734 of 28 November 1977.

** Law No. 14,493 of 29 December 1975.

*** Law No. 14,734 of 28 November 1977.

Apart from the exceedingly slow proceedings and inadequate facilities for the defence, one of the most serious complaints with regard to military justice in Uruguay is the lack of independence shown by the judges themselves in administering justice. We have already referred to their lack of legal training, their reliance on information obtained under duress, and their practice of increasing even the sentence asked for by the prosecution.

There are further factors which cast serious doubts as to whether it is possible to have a fair trial under military justice in Uruguay. A military trial begins through an order from the Minister of Defence, who is the highest authority in the orbit of military justice, giving the magistrate the authority to act. The case should always go to the magistrate de turno (in charge of all cases during his turn of duty which lasts one week). However, current practice is different: all important cases are sent to the magistrate and judge who enjoy the confidence of the military command.*

Even civilian judges who have attempted to maintain their judicial standards have been dismissed or obliged to go into exile.**

Military judges continue to be part of the military hierarchy. This unavoidably affects their investigations into any abuse involving a superior officer and may also influence the ruling on cases in which the Armed Forces have a political interest. The image of the military judges is further tarnished by the fact that they, like all other members of the Armed Forces, are still on increased pay ("battle pay").

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* This happened in the case of Colonel Pedro Aguerre Albano. See footnote on p. 12.

** In 1974 Justice Forni ordered a post-mortem examination of a person who had died while in the custody of the Armed Forces. After the examining doctors had concluded that the dead person had been subjected to torture, the case was transferred to a military judge, who took no further action. Following the approval of Institutional Act No. 8, Justice Forni was dismissed.

Another civilian examining magistrate brought a complaint before the Supreme Court accusing the executive of failing to respect his court and ordering the release of a political prisoner. Before his inevitable dismissal following this confrontation between the judiciary and the executive, he went into exile.

Experienced jurists are concerned that the military courts do not understand the nature of a trial. The judges reveal this, they say, when they increase a sentence on the grounds that the defendant initially lied or did not fully cooperate with the magistrate*, and when they reprimand a lawyer for arguing a different legal doctrine from that followed by the military courts, as if this were not part of the rights and duties of the defence.

Institutional Act No. 8 (1977) introduced fundamental changes in the situation of both the civilian and military judiciary with regard to the system of designation and security of office. While the Supreme Court may still put forward names, the executive may disregard these and designate judges of their own choice. The traditional security of tenure of office for judges is still preserved, but with one fundamental limitation: during the first four years they can be removed without any reason being given. In addition, all the present judges were declared to be "interim" for a period of four years. This decree finalizes the process begun in 1972 whereby the judicial power ceases to be an independent state power**.

The whole process of erosion of the traditional principles that seemed to be solidly established within a system of rule of law in Uruguay, also affected the defence counsel for political prisoners. Some of the problems were described earlier, such as not having access to the client until after he had spent a long period in incommunicado detention and after the judge had drawn up the indictment and the inadequate provision for appeal proceedings. The treatment of the lawyers in court was equally unsatisfactory: on arrival they were treated as if they were suspects, they had to leave their identity papers and carry out their work in a small over-crowded room, where there were neither benches nor desks, and where they had to mix with visitors and soldiers. The trial dossiers were only available for very short periods (e.g. 45 minutes for various lawyers working for many defendants involved in the same case). They had to share one dossier which is sewn together and, at this stage of the trial, cannot be divided up.

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* International Convenant on Civil and Political Rights, Article 14(3)g: In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality...not to be compelled to testify against himself or to confess guilt.

** A leading article of the Uruguayan daily El País (17 August 1978) criticizes Institutional Act No. 8 (which makes all judges "interim" for the first four years) and the effect this will have on the independence of the judges. El País normally gives full support to the Uruguayan Armed Forces. "Institutional Act No. 8 jeopardizes principles which - as we wrote in a previous editorial on the subject - guarantee the impartiality of magistrates. This means that when administering justice, magistrates cannot proceed with the independence inherent to their duties. And if they cannot act with independence, they cannot decide with independence."

Throughout the exceedingly slow, mainly written trial proceedings, counsel is not treated on equal terms with the prosecutor and can never, unlike the judge and prosecution, take the trial dossier to his own office to study. Nor does he have access to the parallel dossier (expediente sumergido) which contains what military intelligence believes to be details of the defendant's character and activities, rather than what has been proven in court.

The practice of increasing rather than reducing a sentence, even on appeal by the defence, can also be used as a punishment for counsel who show particular independence or vigour in the defence of their client. Although the lawyers knew that torture and other irregularities occurred in military custody, they on the whole resigned themselves to carrying out their professional work within this deficient system of justice. Yet, through their professional work they were witnesses to many irregularities and as such, potential sources of information which could be negative to Uruguay's image abroad. This seems to be the reason behind the overt intimidation and persecution of lawyers themselves, which has led to a situation where all lawyers who used to take political briefs are either in exile or imprisoned, or sufficiently intimidated not to take on such cases, thus leaving the prisoners with no other option than that of taking one of the four defensores de oficio, three of whom are military officers without legal training*. The military rulers also considered that acting as defence counsel implicitly suggested sympathy for the prisoner's beliefs and activities, instead of being the normal function of a professional. As one defence lawyer put it: "To act as a lawyer in this atmosphere is almost to expose yourself to rapidly becoming a client". ("En ese clima actuar como abogado es casi exponerse a pasar con rapidez a la categoría de cliente.")

Several lawyers have been arrested explicitly or implicitly because of their defence of political prisoners. In the case of Dr. Mario Dell'Acqua (1976-78) the ostensible reason for prosecution was his omission, several years earlier in his capacity as secretary of a branch of the university, to report certain student activities. Several factors suggest that his defence of a large number of political prisoners was the basic cause for his arrest. Other lawyers of outstanding reputation have been imprisoned and charged with "assistance to a subversive association" as a result of alterations

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* In a report dated November 1977, the International Commission of Jurists affirmed: "Having brought all other aspects of the judicial system in political and security cases under military control, it seems that the intention of the Uruguayan military authorities is now to drive out of their courts all civilian defence advocates, leaving the prisoners to be defended only by official military defenders who lack both the independence and legal competence to represent them adequately."

to the dossiers in an attempt to show that they have not formally been designated by the defendant. Others have been charged with "attack on the moral reputation of the army" on the basis of statements made in the normal course of legal defence, e.g. a comment on the slow pace of the military trial proceedings which was found to be "insulting" to the Armed Forces. The international outcry to which such arrests gave rise led to the fairly early release of several of these lawyers. Their professional work will suffer the consequences for much longer.

Prison Costs

In the past two years, military justice in Uruguay has made highly irregular use of an old legal provision from the civilian penal code. Art. 105 of the code refers to the "obligation to reimburse the state for the cost of food, clothing and lodging during the period of trial and sentence". Those who, in the judge's opinion, lack resources, are exempt from this payment (Art. 106).

Apart from the fact that this provision had fallen into disuse and had not been applied by any civilian judge for over 40 years, there are further aspects of its present application that need emphasizing. This payment is only applied to political prisoners under military justice; the sum demanded is arbitrarily set by the military authorities*; it is applied even though the prisoners carry out compulsory unpaid work during their period of imprisonment and the families often provide their food; the judges reportedly do not inform the prisoners of the possibility of being exempt from payment.

The military judges reportedly inform the families that the prisoner cannot be released until his prison costs have been paid. This leads many families to make extreme sacrifices in order to obtain the sum demanded to secure the prisoner's release. However, Amnesty International also has reports that many prisoners have been released without any payment being made and have also been allowed to leave the country. The statistical material is too small to enable Amnesty International to assess the frequency with which the payment is enforced. However, from the information available, it appears that the payment of prison costs, apart from being an additional source of revenue for the military authorities, serves as a means of keeping a prisoner in detention after the expiry of his sentence, should the authorities wish to do so.

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* For 1972 1.50 new pesos, with a gradual increase until 1978 when it reached 15 new pesos. A receipt for prison costs issued in June 1978 for the period 1973-78 equalled US $ 1,700. The bank account number is No. 3383983 of the Banco de la Republica.

In a letter to Amnesty International in March 1979, the information office of the Armed Forces states that prison costs represent one third of the prisoner's earnings while doing remunerated work in prison and that this provision has been "rigourously applied by military justice". In its reply, Amnesty International seriously questioned the justification for this practice in view of the fact that political prisoners do not receive any form of payment for the work they carry out while in detention.

CONCLUSION

Reports of arrests of peaceful dissidents, illegal detention procedures, long periods of incommunicado detention, and various forms of torture taking place in Uruguay continued to reach Amnesty International in 1978 and 1979. Such arrests and procedures violate the Uruguayan Constitution and the international instruments to which Uruguay is a party. The present lack of separation of powers has eliminated all safeguards against unlawful detention, either administrative or judicial, and effectively prevents any remedies for such infringements of basic human rights from being carried out within the country itself.*

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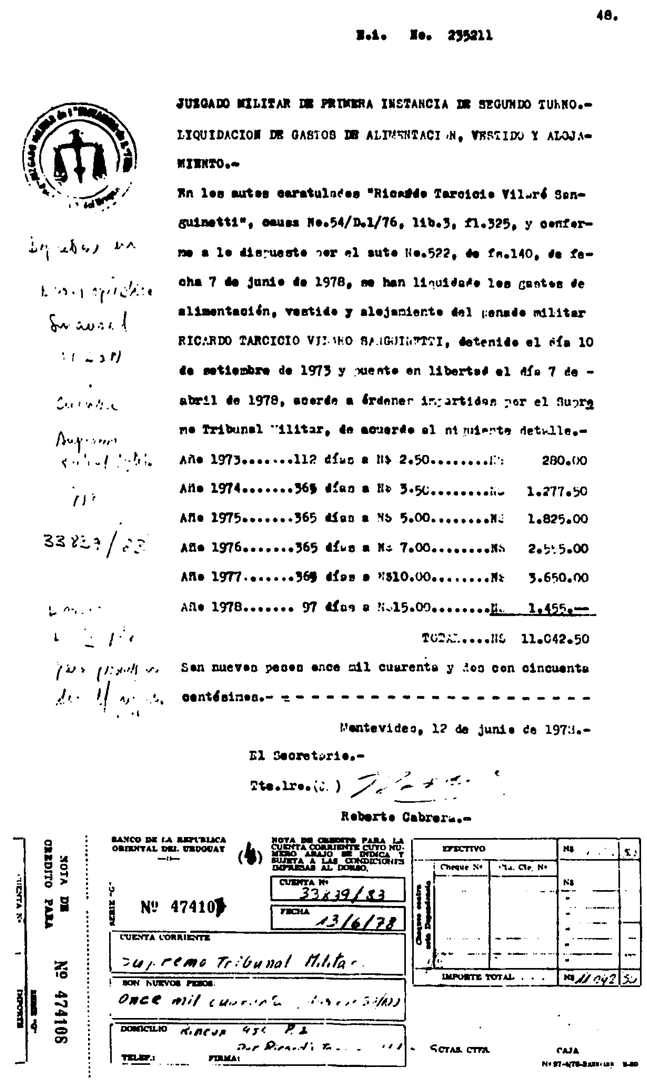
* This was recognized by the Vice President of the Council of State Dr. Julio C. Espinola in his official speech commemorating the 5th Anniversary of the creation of this body:

> "Whether the Council of State has fulfilled the very important functions attributed to it through Article 2b of the Institutional decree, namely to control the conduct of the Executive Power in relation to the respect for the individual rights of the person and its obedience to constitutional and legal norms, the answer, in my opinion, must be no. The Council of State has not lived up to its task. It has reduced itself to total silence." (Published in the Official Gazette 19 December 1978)



48.

N.i. No. 295211

JUZGADO MILITAR DE PRIMERA INSTANCIA DE SEGUNDO TURNO.-
LIQUIDACION DE GASTOS DE ALIMENTACION, VESTIDO Y ALOJAMIENTO.-

En los autos caratulados "Ricardo Tarcicio Vilaró Sanguinetti", causa No.54/D.1/76, lib.3, fl.325, y conforme a lo dispuesto por el auto No.522, de fs.140, de fecha 7 de junio de 1978, se han liquidado los gastos de alimentación, vestido y alojamiento del penado militar RICARDO TARCICIO VILARO SANGUINETTI, detenido el día 10 de setiembre de 1973 y puesto en libertad el día 7 de abril de 1978, acorde a órdenes impartidas por el Supremo Tribunal Militar, de acuerdo al siguiente detalle.-

Año 1973	112 días a N$ 2.50	N$ 280.00
Año 1974	365 días a N$ 3.50	N$ 1.277.50
Año 1975	365 días a N$ 5.00	N$ 1.825.00
Año 1976	365 días a N$ 7.00	N$ 2.555.00
Año 1977	365 días a N$10.00	N$ 3.650.00
Año 1978	97 días a N$15.00	N$ 1.455.-
	TOTAL	N$ 11.042.50

Son nueve pesos once mil cuarenta y dos con cincuenta centésimos.- -

Montevideo, 12 de junio de 1978.-

El Secretario.-

Tte.Ire.(C.)

Roberto Cabrera.-

BANCO DE LA REPUBLICA ORIENTAL DEL URUGUAY

NOTA DE CREDITO PARA LA CUENTA CORRIENTE (CITO NO. MERO ABAJO SE INDICA Y SUJETA A LAS CONDICIONES IMPRESAS AL DORSO.

Nº 47410

CUENTA Nº 33839/83

FECHA 13/6/78

CUENTA CORRIENTE Supremo Tribunal Militar

SON NUEVOS PESOS Once mil cuarenta

DOMICILIO

TELEF.: FIRMA:

NOTA DE CREDITO PARA CUENTA CORRIENTE

Nº 47410

EFECTIVO

Cheque Nº

Cta. Cte. Nº

IMPORTE TOTAL

N$ 11042 50

SOLAR CITR.

CAJA

The photograph shows a bill for "prison costs" and the bank receipt.

Amnesty International
International Secretariat
10 Southampton Street
London WC2E 7HF
England

STATEMENT ON TORTURE IN URUGUAY
MADE BY
FIRST LIEUTENANT J. C. COOPER
TO
AMNESTY INTERNATIONAL

June 1979

AI INDEX: AMR/52/16/79

These photographs were sent out by a Uruguayan military officer. He said he did this because of the "revulsion I feel for all that I have the misery of witnessing, and worse still, in some cases, of taking part in".

The photograph shows a hooded man enduring *la bandera* (the banner); suspended by his wrists in the garden of a house.

The photograph shows another hooded but naked man, his wrists handcuffed behind his back, enduring a painful form of torture called *el caballete* (the sawhorse); forced to straddle an iron bar which cuts cruelly into the groin.

Lieutenant Julio Cesar Cooper, 35, a former officer in the Uruguayan Army, both carried out and witnessed acts of torture in the Montevideo barracks of the Sixth Cavalry Regiment. Although he refused to commit further torture after September 1972, and was arrested and held for a short period in solitary confinement, he remained in the Armed Forces until 1977. He then left Uruguay. He told his story early this year in a taped interview with Amnesty International, from which the excerpts below were taken.

AMNESTY INTERNATIONAL. Lieutenant Cooper, are political prisoners tortured in Uruguay?

LIEUTENANT COOPER. Yes. Torture in the Uruguayan Armed Forces has existed since the direct intervention of the Armed Forces in anti-subversive action, that is from September 1971. From that time up to the present torture has been progressively applied.

AI. How do you know?

LC. I know from having practised torture, from having been present when it took place, from comments made by Army personnel, and from having seen prisoners with obvious signs of having been tortured. When I employed torture methods I was at Number 6 Cavalry Regiment, Montevideo City. The methods employed there, ranging from the mildest to the most traumatic, are prolonged standing *(plantones)*, physiological prohibitions (preventing the victim from urinating or defecating), the submarine torture, hanging victims up by their limbs and finally electric shock *(picana eléctrica)*...

AI. How did you officers react to torture and death as a result of torture?

LC. Well, I do not include myself in the answer, because my attitude to torture is something very special, very personal. But in general the officers consistently displayed an attitude of acceptance. As to the display of feelings of unease or pleasure in inflicting torture, there are officers whom I have actually seen who are fairly discreet - they confine themselves to carrying out the torture without displaying any kind of feeling. But I have also witnessed commanders and officers who showed eagerness in applying torture and satisfaction, even in tragic cases such as those resulting in death. I was able to sense the pleasure of certain commanders and officers, and the mocking attitude they adopted towards the dead person or to his or her family.

Although I was not present at any fatal *dénouement* of torture, I can name the following cases, which I know of through comments by my fellow officers: the prisoner Hugo de los Santos Mendoza died at our regimental barracks in Montevideo City, the prisoner Fernández Mendieta died under torture in the barracks of Cavalry Regiment No. 1 at Durazno town, and in December 1976 two prisoners Porta (Dante Porta) and Facio (Raúl Facio) died within a day or two in the city of Bella Unión, Department of Artigas. As to this last matter, I myself was present during a meal at the headquarters of Cavalry Brigade No. 1 (in the city of Ribera) when Colonel Dinarte Pérez, chief of the brigade, remarked on the problem which had been created for him because of

the nervousness and concern of General Rodolfo Zubía, Commander of Army Division No. 3, in which the deaths had taken place. Colonel Pérez said that he had assuaged the General's fears, telling him that all necessary action was provided for in connection with the events, as regards the official version of the deaths and the presentation of medical certificates. In a word, the Colonel said, he told the General to set his mind at rest and leave the matter in his hands...

AI. Are many officers involved in torture?

LC. I would estimate that 90% of the Uruguayan officer corps - I repeat 90%, and I mean all ranks - are involved directly or indirectly in torture. By 'directly' I mean the person who applies the torture. By 'indirectly' I am referring to the man who bears responsibility for giving the orders. In our unit, for example, there was a staff of two senior and 13 other officers. Out of these fifteen, I can state that only two did not take part in torture.

AI. What was and is the object of torture?

LC. To extort confessions.

AI. And if the detainee were completely innocent, had no knowledge and had nothing to confess... what happened?

LC. Well, I believe that there are a large number of people detained in Uruguay who are completely innocent, since torture is applied in a way that leaves practically no margin for the detainee to demonstrate his innocence. From the moment of the detainee's arrival at the detention centre torture is applied - the prisoner can't avoid it and, given the human condition, in many cases the detainee would prefer to invent and attribute to himself responsibilities which are not real, provided he could be free of torture.

AI. In the presence of military judges, before whom the majority of political detainees appear, what possibility is there of rectification or denial of statements made under torture?

LC. I can perhaps answer the question by citing a case. In October 1972 four doctors who had been imprisoned in our barracks were brought before the military judge. Their statements had been extorted by torture. Before the judge they retracted the statements, and the judge ordered their release. The decree was not respected by the military authorities, and the four doctors were once more imprisoned at the Sixth Cavalry Regiment. I was able to observe that, immediately on their arrival at the barracks, they were subjected to a whole series of tortures, which resulted in the case of one doctor (Dr. Isern) in a fractured ankle. Following this it is unlikely that any detainee would actually deny his statements before a military judge. It would be absurd, since the denial would entail immediate torture to rectify the denial.

AI. In the Uruguayan Constitution and in international instruments like the International Covenant on Civil and Political Rights, ratified by Uruguay in 1969, torture is absolutely prohibited. Therefore in national and international law, there should be legal consequences for any person in a position of authority who is implicated in maltreatment of a detainee. What is your opinion of the implementation of this legislation in Uruguay?

LC. As far as I know no military personnel have been punished for participation in torture. On the contrary, there exists a clear complicity on the part of the military authorities and the military courts. If someone

tries to prevent or protest against the ill-treatment of a detainee, they will try to silence him and punish him. I can give a concrete example of an ex-Captain of the Army, Carlos Arrarte, who is now in detention. Captain Arrarte had heard the shouts and blows being given to a detainee next to his dormitory in the quarters of the No. 7 Infantry Battalion in the city of Salto. He intervened with the torturers, Captain Tarigo and Lieutenant Nario, and even came to blows with the Captain because of his refusal to stop the torture. This led to Captain Arrarte's trial, his expulsion from the Armed Forces and his subsequent detention. Furthermore the record of the proceedings of the Military Tribunal of Honour (published in the Bulletin of the Uruguayan Ministry of Defence) emphasised the meritorious conduct of the two officers who applied the torture - their zeal in the performance of their duty, their exemplary conduct.

AI. Some methods of torture, like beatings, *plantón* and submarine, do not require sophistication or apparatus. There are other methods which require special apparatus, such as the *picana*. How did the *picanas* reach the Armed Forces, from what origin?

LC. Well, in September 1971 the task of repression was entrusted directly to the Uruguayan Armed Forces. I immediately noticed the circulation of the appliance called the *picana eléctrica* (electric shock baton) in the different barracks where I happened to be. It was the novelty of the moment, and a novelty as a torture instrument as well. I observed that, without exception, each of these instruments was of North American origin, and they reached the barracks by way of the Uruguayan Police Force.

AI. Torture up to 1971 was essentially practised by the police?

LC. Yes, I believe so, up to 1971.

AI. Have you any knowledge of any special training, either nationally, within the country,or abroad, for special intelligence work?

LC. I think these courses have existed as a permanent feature at all times, but more markedly in the last few years, whether in the United States, Panama, Brazil or Argentina. I was able to note that lately there have been annual visits to the German Federal Republic by a group of senior and other officers, perhaps about twenty, to attend special intelligence courses.

AI. What was your participation in torture during the two periods into which your military career can be divided, that is, from 1968 to 1972 and from 1972 to 1977?

LC. My direct part in the application of torture started at the end of May 1972 and ended with the first days of September in the same year... The methods which I came to apply were the *plantón*, physiological prohibitions, and beatings.

In my own case (and I would consider it typical of the general attitude of an officer at the time) torture was regarded as a means to an end. The objective was to obtain a confession from the detainee, purely and simply. The authorities constantly enjoined on us the need to obtain confessions in order to save the lives of military personnel who might be in danger of attack by revolutionary groups. There was a concept of urgency in all confessions. However, subsequently the idea began to lose its force and changed into the application of torture for its own sake, as part of a routine, and also as an act of vengeance against the detainee. I think that the degeneration began during 1972, and this was also when I began to feel it.

AI. Why did you cease to participate in torture sessions?

LC. I began taking part in torture with a set concept of the whole complex of problems our country was experiencing. But between May 1972, when I began to apply torture, and the beginning of September, when I decided not to take any further part in it, I underwent a change of mind. Factors in this change were the most striking aspects of the struggle which was going on at the time, the situation prevailing inside the barracks and in civilian circles, and not least the revelations of corruption and malpractice by traditional politicians and economic powers which were brought to light in investigations by the Armed Forces themselves. I realised that 'subversion' could take many forms.

Then a specific incident took place which had a great impact on me. It was, if I remember rightly, the third of October 1972 when the revolutionary leader Gabino Falero Montesdeoca was detained at the Cavalry Regiment No. 6. The unit's second in command, Major Victorino Vázquez, ordered the detainee to be brought in for interrogation. When the Major caught sight of the detainee, who was led in by two soldiers, he seemed to suffer a nervous attack. He ran up to the detainee, shouting loudly at him and at the same time pushing him forward with a hand on his back. The prisoner, whose hands were tied behind his back, was hooded and could not see, but, responding to the action of Major Vázquez, began to hasten his steps and eventually to run. Major Vázquez steered him toward a pillar which was approximately forty centimetres thick. The detainee ran and dashed himself violently against the pillar, receiving cuts and fractures.

As my ideas began to change, I could no longer endure events like this, and eventually I became unable to apply torture. Another decisive encounter happened on the night of 29 November 1972 at the Cavalry Regiment No. 10 in the city of Artigas. I was given the order to take part in a torture session against a detainee with the surname of Sutil. I recognised him immediately in spite of his being hooded - we both came from the same town and had been on friendly terms since childhood. He had a striking physical characteristic, a deformed leg as the result of polio contracted in infancy, but I had also anticipated that it might be he, for I had heard reports that he had been arrested and was in the hands of the regiment. We were supposed to give him the submarine torture, although he showed signs of already having received ill-treatment and simply lay where he had been dumped on the concrete. When the order was given to proceed, I informed my superior officers, Captain Ruben Martínez and Captain Menotti Ortiz, of my decision not to participate any longer in torture. This incident caused my arrest and subsequent trial by a military court.

AI. Yet you continued to serve in the Armed Forces. Why did you not have a firmer attitude towards torture and why did you not protest more actively or try to prevent it?

LC. I was harbouring the illusion that some sector of the Armed Forces would react, putting an end to the situation, that some sector would seek to create a new perspective from which the nation's problem could be seen. I felt that I could only contribute at the right moment if I stayed in the Armed Forces, albeit as a dissident. I felt that in civilian life my contribution would be neutralised.

AI. Do you repent having participated in torture?

LC. Of course I am totally repentant, and furthermore my rejection of torture is only the most traumatic factor in the evolution of my ideas.

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URUGUAY:

THE CASES OF FOURTEEN PRISONERS OF CONSCIENCE

March 1979

AI INDEX: AMR/52/06/9

URUGUAY

THE CASES OF FOURTEEN

PRISONERS OF CONSCIENCE

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INTRODUCTION

Since mid-June 1973, when the Armed Forces of Uruguay took over control of the Government and the elected Parliament was dissolved, international human rights commissions and non-governmental organizations, including Amnesty International, have received hundreds of detailed complaints of the arrest and detention of persons on the basis of their peacefully held political beliefs. Their continuing detention is a violation of the United Nations Universal Declaration of Human Rights. Amnesty International considers these persons to be prisoners of conscience and is campaigning for their immediate release.

The Uruguayan Constitution of 1967 claims to guarantee the basic individual and legal rights of its citizens, but these rights have been gradually invalidated by official acts, laws and decrees enacted by the present Uruguayan Government. For example, in June 1973, the President of Uruguay, while invoking the Prompt Security Measures *(Medidas Prontas de Seguridad)*, decreed that the constitutional right of assembly of a political nature in public or private places cannot be exercised without prior authorization. In the same month, the President decreed the dissolution of the national trade union movement - the *Convención Nacional de Trabajadores (CNT)* - which comprises over 90% of the work force, declared it an "illicit association", closed its offices and ordered the arrest and trial of its leaders.

On 28 November 1973, the President dissolved and declared as "illicit associations" fourteen political parties and groups. Under this decree, activity involving a banned political party or group is designated a crime of "subversive association" or "assistance to subversive association". Furthermore, under the decree, political parties which have not been banned are declared "in recess", which means that there is a total prohibition on political activity in the country. The same decree prohibits the publication of any material having a "marxist-socialist" orientation.

In the past eight years, twenty-six national newspapers and five local newspapers, as well as numerous trade union publications, have been closed by the Government. Anyone who voices criticism of government policies is liable to the charge of "attack on the moral strength of the Armed Forces".

Despite these initiatives and the high number of political prisoners, the Uruguayan authorities have categorically denied that any human rights violations have occurred and that its citizens are persecuted solely for their political beliefs. On numerous occasions, the Uruguayan Government has dismissed charges of human rights violations made by the international community, governmental and non-governmental bodies alike, as an "organized and systematic international campaign by marxist-leninists to discredit the country".

The cases of the fourteen prisoners of conscience presented in this report are representative of many other Uruguayan political prisoners who have been imprisoned for their non-violent political views. Their cases also illustrate Amnesty International's concern about several aspects of political imprisonment in Uruguay: lack of legal safeguards at the time of arrest; long periods of *incomunicado* detention; maltreatment, "disappearance" and torture; military jurisdiction over civilians; and poor prison conditions.

Didaskó PEREZ BACCINO

Didaskó Perez Baccino, aged 42, a primary school teacher and audio visual specialist, was detained on 21 March 1975 during a raid on the offices of the *Federación de Enseñanza Secundaria*. At the time of the raid on the offices, Sr. Perez was Secretary General of the *Federación Uruguaya de Magisterio* (Primary School Teachers' Federation). The authorities claimed that this organization had been providing financial support for other members of the teaching profession who had been dismissed for political reasons and trade union activities. The authorities also claimed to have found literature belonging to banned organizations at the offices. On 18 April 1975, the *Federación de Profesores de Enseñanza Secundaria* was closed down by the authorities for alleged links with illegal marxist organizations and the Federation's funds were confiscated.

During the months prior to 1 May 1975, numerous arrests of teachers, trade unionists, students and other opponents of the Uruguayan Government took place in an attempt to prevent May Day celebrations. A similar wave of arrests had taken place prior to May Day the previous year.

It is reported that at the time of Sr. Perez's arrest he was severely beaten and several shots were fired by the arresting police officers. He was first taken to *Dirección Nacional de Información e Inteligencia No 2*, where he was subjected to long periods of enforced standing *(plantón)* and was not given food for thirty hours.

On 2 April 1975, Sr. Perez was placed at the disposition of the *Juzgado Militar del 6 Turno* (military magistrate) and transferred to *El Cilindro*, a sports stadium which was used as a detention centre at the time. The military magistrate ordered his release on 7 June 1975 but he remained in detention for a further 20 days and he was not released until 27 June 1975.

On 2 October 1975, the same magistrate ordered that Sr. Perez be brought to trial on the charge of "assisting a subversive association" under Article 60 (VI) of the military penal code, in spite of the fact that the magistrate had previously found that there was insufficient evidence for prosecution. Although Sr. Perez has already been in detention for over three years, he has not been sentenced. He is held in the *Establecimiento Penitenciario de Punta Carretas* in Montevideo.

Didaskó Perez is married with two children. He is a qualified audio-visual expert and was responsible for the creation of the *Centro de Experimentación Audiovisual*, an audio-visual experimental centre which aimed to extend the use of modern technology more widely in the field of education.

Alfonso Avelino FERNANDEZ CABRELLI

Alfonso Avelino Fernández Cabrelli, aged 60, a well-known municipal lawyer, historian and journalist, has been held by the Uruguayan authorities since 1976, charged under Article 58 of the military penal code with "offences that affect the morale of the Armed Forces".

Sr. Fernández Cabrelli, who has been detained in the *Cárcel Central* of the Police Headquarters in Montevideo, has not been sentenced. In an official communiqué dated 9 September 1976, the authorities charged that Fernández Cabrelli had attempted in his book *Los Orientales* (published in 1971) to"influence the reader's subconscious" by distorting historical events in Uruguay and drawing parallels between the 19th century hero of Uruguayan independence General Artigas, Camilo Torres, and "Che" Guevara. The authorities further stated that the book contains numerous passages which "strongly criticize the measures taken by the Uruguayan Government to preserve our national values and to protect against marxist penetration".

Fernández Cabrelli was the director of the monthly magazine *Para Todos* (For Everyone) which published 19 issues from February 1971 until November 1972, when it was banned by the authorities. He was also the director of the series *Grito de Ascencio* which included several political and historical publications, among them *"Torturas Uruguay 70"*, *"Artigas"*, *"Militares y Pueblo"* and *"Citas del Prócer"*. Since June 1973, twenty-six national newspapers and five local newspapers, as well as numerous magazines and trade union publications, have been closed by the Uruguayan Government.

Anselmo FERNANDEZ OXLEY

Anselmo Fernández Oxley, aged 40, a test engineer at the *Administración Nacional de Telecomunicaciones*, the State telephone/telecommunications company, was arrested on 16 December 1975 at his home in Montevideo. For two months, his family was unable to discover his place of detention and they were not allowed to visit him until August 1976, eight months after his arrest. Sr. Fernández's arrest in late 1975 coincided with a massive wave of arrests of members and alleged members of the Communist Party of Uruguay.

According to the Uruguayan authorities, Anselmo Fernández was brought before the *Juez de Instrucción del Segundo Turno* (military examining magistrate) on the date of his arrest; thus his detention was officially recognized. He has been sentenced to seven years imprisonment charged with "subversive association" under Article 60 (V) of the military penal code in relation to Article 132, para. 6, and Article 137 of the civil penal code. "Subversive association" is the most common charge brought against persons who have belonged to or supported any of the political parties or groups banned in 1973.

Anselmo Fernández was first detained in the barracks of the 5th Artillery Regiment in Montevideo. It is common in Uruguay for detainees to be taken to a military barracks following arrest for interrogation purposes, often accompanied by maltreatment and torture. He is now held in the military high security prison, the *Establecimiento Militar de Reclusión No 1.*

It is unclear whether the charges against Anselmo Fernández are related to his trade union activities or his possible membership of the Communist Party of Uruguay. Sr. Fernández had been dismissed from his job at the State telephone/telecommunications company in 1969 after being called up to serve in the armed forces. At this time, the Uruguayan authorities had tried to put an end to strike action by conscripting strikers into the armed forces. Anselmo Fernández was subsequently reinstated in his job in February 1974 by an Administrative Tribunal.

Eugenio Salvador BERNAL PEREZ

Eugenio Salvador Bernal Pérez, aged 56, a Spanish national and professional photographer, was detained on 5 July 1977 at his photography studio in Montevideo. Shortly after his detention, his wife was instructed by the authorities to take clothing and personal articles to the former military secondary school. Military personnel collected the articles, but gave no information to the wife on the whereabouts of her husband. It was later reported that Sr. Bernal was first held in the 6th Cavalry Regiment, where he was severely tortured, and eventually transferred to the main military prison for men, *Penal de Libertad (E.M.R. No 1).*

On 31 August 1977, Sr. Bernal was charged with "assisting a subversive association" under Article 60 (VI) of the military penal code.

On 14 February 1978, his case went before the *Juzgado Militar del 2 Turno* (military magistrate). According to the Uruguayan authorities, Sr. Bernal is in detention for developing photographs for the banned Communist Party of Uruguay. Reliable sources outside of Uruguay report that the photographer may have developed some photographs taken by an Army official of torture methods practiced by the Armed Forces of Uruguay.

Sr. Bernal, one of thirteen or more Spanish nationals detained in Uruguay, was visited by the Spanish Consul on 16 September 1977. His wife and son have been forced to close down the photography studio in Montevideo.

General Liber SEREGNI

General Liber Seregni, aged 62, was the presidential candidate for the *Frente Amplio,* a left-of-centre coalition which took part in the last parliamentary elections in Uruguay, held in 1971.

In the course of a brilliant military career, General Seregni held leading posts in several military institutions in Uruguay (e.g. the Military Institute of Superior Studies (IMES) and the General Inspectorate of the Army). In 1963 he reached the rank of general at the age of only 47 and he was made commander of the Second Military Region. This region includes the provinces of Soriano, Flores, Colonia and San José. He was later made commander of the most important military region in Uruguay (No. 1), which covers the province of Canelones and the capital city, Montevideo. He resigned from this post in 1969 over a disagreement with the government regarding the social and political situation within the country.

General Seregni was first arrested on 9 July 1973 following the massive peaceful demonstration which took place in Montevideo in protest against the dissolution of Parliament (27 June 1973). He was held *incomunicado* until the end of December in the barracks of the infantry batallion at the town of Minas. He was not formally charged until February 1974. His request to go into exile, to which he was legally entitled until he was charged, was denied. The original charges brought against him were "conspiracy to conceal an attack on the Constitution" and "instigation to commit crimes". The defence argued that these were not crimes which fell under military justice and subsequently a new charge was brought against General Seregni: "lack of respect towards a superior officer". This charge was based on his electoral campaign speeches in 1971. He was released on bail in November 1974 and placed under strict house arrest. A *Tribunal de Honor* stripped him of his rank.

Following several explosions in January 1976 at the seaside resort of Punta del Este, General Seregni was re-arrested. The explosions, to which there is no reference in the trial dossier, have never been satisfactorily explained by the Uruguayan authorities. The General had moved to his summer house at Punta del Este with the permission of the judge. Liber Seregni was then accused of having broken his house arrest and his bail of 1,000 new pesos was confiscated. He was taken to the regimental barracks at Maldonado where he was subjected to maltreatment: blows; *plantón* (prolonged standing); hooding; deprivation of sleep.

A new indictment was then prepared and was added to the earlier one. The charges refer to disrespect towards superiors (based on his electoral speeches); instigation to disobey laws; usurpation of functions (referring to the civic activities of the *Frente Amplio* in cleaning the beaches and building bus shelters); and an attack on the Constitution (based on the allegation that he had knowledge of the

*"Plan Contragolpe"**. A charge relating to the possession of a firearm was dropped after irrefutable evidence came to light that General Seregni had been officially given the weapon for self-defence prior to the elections. The new charges led the prosecution to ask for a sentence of 10 years instead of the original three years.

In April 1978 General Seregni was sentenced to 14 years' imprisonment. The practice of increasing the sentence request by the prosecution *(ultrapetita)* has gradually become a common feature of Uruguayan military justice in recent years.

General Seregni is married with two daughters and two granddaughters. At present he is being held in the *Cárcel Central* of Police Headquarters in Montevideo. He is allowed a radio and books but no newspapers. All correspondence (except from his family) is intercepted. A one hour visit by his family and lawyer is permitted each week.

* Within some sectors of the Armed Forces, it became known that a coup was being prepared in case the *Frente Amplio* won the elections. Certain officers reportedly held meetings with other sectors in Uruguayan society to discuss measures to prevent such a coup. They pledged themselves to defend the Constitution and the victorious party in the 1971 elections. For this reason they are often known as the *Constitucionalistas*.

Arrested at the same time as General Seregni were two other military officers and members of the board of the *Frente Amplio:* General Victor Licandro and Colonel Carlos Zufriategui.

General Victor LICANDRO

General Victor Licandro is a former Director of the Military Academy *(Escuela Militar)*. He was arrested on 9 July 1973 but unlike his colleagues, Seregni and Zufriategui, he was never released pending the outcome of his trial, despite various requests to this effect by his defence lawyer.

Following his arrest, a *Tribunal de Honor* stripped General Licandro of his rank and forbade him to wear his uniform. He was charged with *asonada* (rioting) under Article 145 of the civil penal code, as well as Article 58 - "attack on the reputation of the army" - and Article 60 (VI) - "assisting a subversive association" - under the military penal code. He has been sentenced to eight years' imprisonment. According to Uruguayan law, General Licandro is now eligible for release, having served half his sentence *(libertad anticipada)*.

General Licandro was first held at the *Escuela de Armas y Servicios* and later transferred to the *Cárcel Central* at Police Headquarters in Montevideo. He is under the same prison regulations as General Seregni and receives the same treatment.

General Licandro is reported to be in a poor state of health: in winter he suffers from bronchial spasms and congestions and he is reported to have an oxygen cylinder in his cell. Dr. Szizin, the police doctor, has stated that it is not possible to give General Licandro adequate medical treatment while he is in prison.

Colonel Carlos ZUFRIATEGUI

Colonel Zufriategui and General Seregni photographed with the late President of Chile, Salvador Allende

Colonel Carlos Zufriategui was interim head of the Army Staff *(Estado Mayor del Ejército)* from 1968 to 1969. He attended courses in the United States and gave lectures at the Inter-American Defence College.

He was first arrested on 9 July 1973 with Seregni and Licandro. The first indictment charged him retroactively for his joint responsibility for the *Frente Amplio* communiqué issued shortly after the military coup d'état of 27 June 1973. He was granted provisional liberty on 14 February 1975 but was re-arrested on 2 February 1976 and taken to a house in Punta Gorda which had originally belonged to a member of the guerilla movement MLN-Tupamaros, but which had been confiscated by the Armed Forces. The house, which is reportedly under the command of a notorious torturer, had been turned into a torture centre. Colonel Zufriategui was hung by the wrists and made to

believe that he would be executed immediately. He was pressed to accuse General Seregni of having participated in the meetings of the *"Plan Contragolpe"* or at least of having knowledge of the meetings. He was charged with making an "attack on the Constitution" by the military *juez de instrucción* (examining magistrate).

The prosecution asked that a sentence of eight years be passed against Zufriategui, but in July 1978 he was sentenced to fifteen years' imprisonment.

Colonel Zufriategui is an elderly man. He is married and has a son. He has reportedly been subjected to various forms of torture: electric shock torture; *submarino* (submersion, often in filthy water or excrement until nearly drowned); *plantón* (prolonged standing in a fixed position); beatings. On two occasions he has been interned in the Military Hospital with severe bruising and leg paralysis. At various stages during his imprisonment he has been held in the Regimental Barracks at Minas, and at the *Cárcel Central* at Police Headquarters. He is at present imprisoned in a special section of the common prison, the *Penal de Punta Carretas*.

Gerardo CUESTA VILLA

Gerardo Cuesta Villa, aged 61, a former member of Parliament and a highly qualified machine operator, is one of the founders of the metal workers' union and a leader of the banned national trade union central - *Convención Nacional de Trabajadores del Uruguay (CNT)*. It is reported that he was detained on 21 January 1976 and held in incommunicado detention until 7 May 1976. It is alleged that during this period he was severely tortured.

In mid-1976, the International Labour Organization forwarded to the Uruguayan Government various complaints the organization had received regarding the detention of Gerardo Cuesta Villa. In April the International Union of Metal Workers and the World Federation of Trade Unions reported his detention and allegations that he had been tortured. In a letter of 15 April 1976, the WFTU reported that Gerardo Cuesta had been summoned by the Uruguayan authorities in an official communiqué for having given information to a representative of the International Labour Organization during his mission to Uruguay. On 10 May 1976, the WFTU reported that Sr. Cuesta was detained in the air force base of Boisso Lanza.

In communiqués of 14 May and 6 October 1976, the Uruguayan Government answered the ILO: Sr. Gerardo Cuesta was detained on 7 May 1976 for his participation in the "logistic and health apparatus" of the banned Communist Party of Uruguay. The authorities thus refused to acknowledge that he had been detained from January 1976 onwards. The authorities denied that his detention was related to contacts with an ILO representative or for having given him information. He was charged on 10 August 1976 with "subversive association" and "attack upon the Constitution at the level of conspiracy followed by preparatory acts" under the military penal code. On 28 August 1978 he was sentenced to twelve years' imprisonment.

Gerardo Cuesta Villa is presently serving his sentence in the military high security prison for men, the *Establecimiento Militar de Reclusión No 1*. His case has been taken up by the Inter-Parliamentary Union and the International Labour Organization.

Héctor Pío RODRIGUEZ da SILVA

Héctor Pío Rodríguez da Silva, aged 60, a prominent Uruguayan politician, journalist and trade unionist, was detained on 31 October 1973 at his home in Montevideo. In March 1974, nearly four months after his arrest, he was charged with "subversive association" and on 23 August 1977 he was sentenced to ten years' imprisonment.

Sr. Rodríguez and 23 other leading members of the *Grupos de Acción Unificadora* (Groups for Unifying Action - *GAU*), a political group which Héctor Rodríguez helped to organize, were arrested in late October 1973, allegedly in connection with a bomb explosion on 27 October 1973 in the engineering faculty of the University of Montevideo. The explosion killed one student who was alleged by the authorities to have belonged to a group affiliated to the *GAU* and to be responsible for the bomb.

No evidence has been established to link the student with the bomb, nor has the prosecution been able to advance proof of the *GAU* leaders' responsibility for the explosion. Some of the defendants were arrested before the explosion, which makes the allegations against them even more dubious.

Sr. Rodríguez was a deputy of the Uruguayan Congress from 1947 to 1952. At that time he was one of the youngest Congressional deputies in Latin America. As a trade unionist he played a major role from 1940 to 1970 in the creation of the national trade union movement, *Convención Nacional de Trabajadores*, as well as creating the *Congreso Obrero Textil* (Textile Workers' Congress) which united all the Uruguayan textile unions into one organization in 1955. Sr. Rodríguez attended many international conferences as a trade union representative and, in 1963,

was appointed labour delegate to the International Labour Organization by the Uruguayan Government.

Sr. Rodríguez has served half his ten year sentence and should be eligible for *libertad anticipada* under Uruguayan law. He is held in Punta Carretas prison, where he is allowed visits by his wife and two children. He has been granted a visa by the Luxembourg Government.

Ana María SALVO SANCHEZ de ESPIGA

Ana María Salvo Sanchez de Espiga, aged 24, a nurse, was detained by members of the Armed Forces of Uruguay on 3 November 1978 at her home in Montevideo, where she was living with her parents and two small children. Despite the family's efforts to locate her, no official statement has been made about her place of detention or the reason for her arrest.

In 1974, Ana María Salvo took up legal residence in Buenos Aires, Argentina, where she worked as a nurse at the Pirovana Hospital. On 13 July 1976 she was abducted at her home by members of the Uruguayan and Argentinian Security Forces. Ana María Salvo was one of twenty-two Uruguayans abducted on 13 and 14 July 1976 in the area of Buenos Aires; fourteen of the twenty-two Uruguayans were transferred to Uruguay and later recognized by the Government as in detention in that country.

Cases indicating that Uruguayan military and police personnel were operating in Argentina date back to 1974 and 1975. It is estimated that during 1976 over 70 Uruguayan refugees were abducted in Argentina, many of whom have since disappeared or eventually appeared in detention in Uruguay.

According to official communiqués issued by the Uruguayan Armed Forces dated 28 and 29 October 1976, the fourteen Uruguayans who disappeared in July 1976 and later turned up in prisons in Uruguay had faked their disappearances in order to clandestinely travel to Uruguay to put into operation the aims of a new political party, the *Partido por la Victoria del Pueblo* (People's Victory Party).

The Uruguayan Government's claims that the fourteen refugees had fabricated their disappearances in order to clandestinely travel into Uruguay is contradicted by the numerous testimonies and eye-witness accounts of the abductions in Buenos Aires and *habeas corpus* writs filed immediately after the abductions, sometimes through the United Nations High Commission for Refugees - UNHCR. The UNHCR filed a writ of *habeas corpus* on behalf of Ana María Salvo immediately after her abduction.

On 29 November 1976, Ana María Salvo appeared in detention in the military prison for women at Punta de Rieles, Uruguay, and was later tried for "assisting a subversive association". On 29 December 1977 she was freed under *libertad vigilada* and took up residence in her parents' home in Montevideo. Under *libertad vigilada* the ex-prisoner was required to report to the military authorities every fifteen days and not permitted to leave Uruguay.

To date the Uruguayan authorities have made no official statement about the re-detention of Ana María Salvo on 3 November last year and she is still held incommunicado.

Rita IBARBURU de SUAREZ

Rita Ibarburú de Suarez, aged 63, a veteran Uruguayan journalist, was arrested in late October 1975, during a massive wave of arrests of members and alleged members of the Communist Party of Uruguay. She is charged with "subversive association" because of her political views expressed through her journalism and membership of the Communist Party of Uruguay, which was banned in 1973 after a long parliamentary tradition. Like most political prisoners in Uruguay, Rita Ibarburú is held under the Law of National Security 1972 which brings civilians under military justice.

It is reported that Rita Ibarburú was severely tortured during her initial incommunicado detention at the 5th Artillery Regiment in Montevideo. In mid-1976, she was transferred to the military prison for women, *Establecimiento Militar de Reclusión No 2* (also known as *Penal de Punta Rieles)*, where she shared a cell with her sister, who had also been arrested in 1975. In June 1978 it was reported that Rita Ibarburú had suffered a heart attack due to the prison régime of forced physical labour. The authorities later denied that Rita Ibarburú had suffered a heart attack and claimed that she suffered from a congenital heart ailment and was receiving proper medical treatment. According to the prisoner's husband, who now lives in exile in Europe, Rita Ibarburú had never shown signs of heart trouble prior to her detention in 1975 and was denied family visits during her recuperation in prison.

The case of Rita Ibarburú resembles those of many other Uruguayan journalists who have been imprisoned for their political views. The Report of the Inter American Press Association Committee on Freedom of the Press and Information meeting in Cartagena, Spain, in March 1977, states: "There is no freedom of press (in Uruguay). Government authorities have established the mechanism for written censorship and

telephone warnings; they require copies of all press dispatches by foreign correspondents, some of whom have been arrested for short periods of time; they have prohibited the distribution of certain Argentine newspapers."

Rita Ibarburú is married and was former editor of the magazine *"Nosotras"* and editing secretary of the magazine *"Estudios"*. She remains imprisoned in the *Penal de Punta Rieles*, where she is in poor health.

Julio CASTRO

Julio Castro, aged 69, a well-known educationalist, UNESCO expert on literacy training, journalist and deputy editor of the weekly *"Marcha"*. When arrested on 1 August 1977 he was suffering from a heart ailment, details of which his family gave to the police on the day of his disappearance. Since then there has been no trace of either Julio Castro or the van in which he left home on that day.

On 28 September 1977, the Uruguayan authorities published an official communiqué about his disappearance and urged the public to help establish his whereabouts. Shortly afterwards, the authorities gave the information that Julio Castro had travelled to Buenos Aires on 22 September by the State airline, Pluna. It appears strange that a well-known Uruguayan personality who had disappeared almost two months earlier could then leave the country unnoticed. Furthermore, the Argentinian Government stated, in reply to the Inter-American Commission on Human Rights (IACHR) on 10 December 1977, that Julio Castro's name did appear on the passenger list but that he never boarded the plane at Montevideo Airport and that "in consequence, his entry into Argentina is not registered on that date, nor on any later date".

On 2 January 1978, the Argentinian Government changed their earlier statement to the IACHR and confirmed that Julio Castro did appear on the list of arrivals on the flight and date mentioned. They also explained that there is no other document to confirm his arrival, since Uruguayan citizens travelling from their country of origin do not need disembarkation cards.

It is generally believed that Julio Castro is still in secret detention in Uruguay or that he may have died in detention as a result of torture, although his body has not been returned to his family for burial.

Alberto ALTESOR

Alberto Altesor, aged 65, a former deputy in the Uruguayan Congress, was arrested on 21 October 1975 in Montevideo for his membership of the Communist Party and leadership of the Uruguayan Union of Railway Workers. Despite efforts by his wife to locate him, no official notification of his detention was given by the authorities until nearly two months later.

From people who were detained with him and later freed, his family gradually obtained details of his treatment and place of detention. He was first taken to a private house and later transferred to Infantry Battalion No. 13 (also known as *El Infierno* - Hell - because of the brutal tortures inflicted on detainees). While there he was subjected to beatings, electric shocks, and hours of enforced standing.

On 14 December 1975, he was transferred to Artillery Battalion No. 5 where he was held alone in a room, handcuffed and hooded. His food consisted of coffee with milk and two plates of soup a day. His

family was not permitted to bring him food until September 1976 and only then in limited quantities.

On 24 September 1976, nearly a year after his arrest, Alberto Altesor was charged under Article 60 (V) of the military penal code with "subversive association". These charges are connected with his trade union activities and membership of the Communist Party which was banned in 1973. On 31 May 1978 he was sentenced to eight years' imprisonment.

Sr. Altesor had been in a critical state of health prior to his arrest. He suffers from a serious heart condition which, according to a specialist who examined him in 1974, requires permanent medical surveillance and a strict diet. On 16 July 1976, the same specialist sent a medical report to the Uruguayan authorities, who have publicly recognized that "his life is at risk due to his very weak condition". At the end of 1976, Sr. Altesor was taken from prison to the military hospital in Montevideo in a critical condition where he underwent treatment.

In January 1977, he was transferred to the Libertad Prison *(Establecimiento Militar de Reclusión No 1)* where his treatment has reportedly improved. His family and lawyer are permitted to visit him once a week and he is able to mix with other prisoners and take short walks in the prison grounds. His case has been taken up by the Inter-Parliamentary Union.

Dr. Raúl LOMBARDI ESCAYOLA

Dr. Raúl Lombardi Escayola, aged 36, a nephrologist (kidney specialist), was detained, along with his wife, on 15 June 1978 at his home in Montevideo by personnel from the naval unit *Fusileros Navales*. His wife was released shortly after their detention. Despite the

family's efforts to locate Dr. Lombardi after his detention, no news of his situation was made public by the Uruguayan authorities until 27 July 1978, when local radio stations and the press carried reports that Dr. Lombardi had been detained for his alleged involvement in 1973 with a clandestine medical group staffed by members of the *Hospital de Clínicas*, the largest hospital complex in Latin America, where Dr. Lombardi worked.

On 3 July 1978, Dr. Lombardi was charged with "subversive association" under Article 60 (V) of the military penal code, for acting as a "health officer" within the "armed faction" of the *Grupo de Accion Unificadora - GAU*, a political group whose support came from trade unionists and catholic students with Marxist sympathies. Subversive association is the most common charge brought against members and alleged members of political parties and groups banned by the present régime. Informed sources have stated that while the *GAU* opposed the present régime in Uruguay, it did not advocate violence and it did not have an armed faction.

At the time of his arrest Dr. Lombardi was working as a kidney specialist at the *Hospital Británico* in Montevideo, where he was also helping to organize the Intensive Care Unit. The present United Kingdom Ambassador to Uruguay, who is President of the British Hospital Council, has taken a close interest in the case and has visited Dr. Lombardi in prison. Dr. Lombardi studied in Buenos Aires and in Paris from 1973 till 1975.

Dr. Lombardi is married and has two children aged seven and three years. He has a visa for the United Kingdom and is believed to be held in the naval unit *Fusileros Navales*, which is located in the port of the capital, Montevideo.