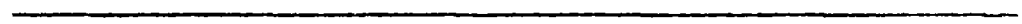


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INTERNATIONAL COMMISSION OF JURISTS

COMMISSION INTERNATIONALE DE JURISTES - COMISION INTERNACIONAL DE JURISTAS
INTERNATIONALE JURISTEN-KOMMISSION

109, ROUTE DE CHÊNE, 1224 CHÊNE-BOUGERIES / GENEVA, SWITZERLAND - TEL. 35.19.73
CABLE ADDRESS: INTERJURISTS, GENEVA



SECOND SUPPLEMENT (DATED JANUARY 1976)

to the

INTERNATIONAL COMMISSION OF JURISTS' REPORT ON URUGUAY OF

JUNE 17, 1974



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INTERNATIONAL COMMISSION OF JURISTS

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SECOND SUPPLEMENT (DATED JANUARY 1976)

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INTERNATIONAL COMMISSION OF JURISTS' REPORT ON URUGUAY OF

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1. The International Commission of Jurists has received a continuing flow of disquieting information from reliable sources in Uruguay on acts of violation of human rights. This has prompted the Commission to publish the present second supplement to the Report on the Mission to Uruguay of 17 June 1974, which follows a first supplement issued on 24 January 1975.

Still more deaths of political detainees

2. More deaths of political detainees have occurred in the course of this year. In these cases there are indications, and in some cases overwhelming indications, of a direct causal link between ill-treatment during investigation and the ensuing death of the detainee. Details of such cases are contained in an annex to this supplement.

Treatment given to detainees arrested for political offences or political reasons

3.

- (1) Arrests continue to be effected anonymously by police or military officers wearing plain clothes, not identified as such, who do not exhibit any warrant or order of arrest. No information is provided to the detainee's relatives or lawyers as to where he is being kept, neither are they informed of the charges, if any, made against him. Detainees are kept in solitary confinement during prolonged periods, sometimes lasting for several months. It is during these periods that the most serious cases of torture occur as is shown by ample and detailed evidence.
- (2) The régime is becoming increasingly severe in its detention centres. Lack of food and the absence of health care have been reported in a number of such places. Prisoners live under the fear of torture. In several cases, persons already tried or having served their sentences for three years have been secretly transferred to army units to be subjected to torture once again. The majority of such prisoners were sent back to their main detention centres, but a small group of them, composed of Tupamaro leaders, have been kept in solitary confinement in different army barracks under extremely severe conditions for the last 2½ years. All this has provoked a damaging state of psychosis

Only the press showing allegiance to the government is allowed to function freely. Other publications which have adopted a critical stand are inhibited from expressing their views for fear of being closed down and having their editors jailed.

7. A clear example of this is the situation in which "El Dia" finds itself. It is an important daily paper, which formerly followed a liberal centre line and at times took a critical stand as regards government action. It has already been closed for certain periods on several occasions. On 6 May 1975, for instance, it was closed for the reason - stated in the government decree which imposed the sanction - that it had been said in the paper that the exercise of the right of strike was regulated "by decree and in a severe manner". The government deemed this to be an abuse, since the regulation was actually made under "emergency measures" provisions. This argument sounds rather ludicrous, since there can be no doubt that such measures are adopted by decree. For this reason, and for having referred to the "events of 27 June 1973" (date of the coup d'Etat) - a reference felt by the government to be injurious in so far as it implies disregard for the "inception of a revolutionary process" - it was decided to close the newspaper and it was stated that any repetition of such articles in the paper could constitute a crime of public instigation to disobedience, sanctioned by the Penal Code.

Situation of the Roman Catholic Church

8. The Church too has been censored. On October 11 a pastoral letter by the Uruguayan Episcopal Conference was subjected to government censorship. The pastoral letter, entitled "Mission of the Church", was to be read out on Sunday, 12 October, in all churches throughout the country and Catholic Church authorities had distributed it in print to local media and foreign correspondents. In an almost immediate reaction, the Home Ministry prohibited its publication and forbade the clergy to read it in the churches. The distributed text had to be withdrawn from the media and press agencies by curial officials during the night of 11 October. To follow up the measure taken, the Uruguayan police seized Argentine and Brazilian newspapers (e.g. "La Opinión de Buenos Aires" and "Jornal do Brazil") that gave information about the episcopal document.

9. The conflict was eventually settled and the pastoral letter was allowed to be read, subject to certain paragraphs being censored and deleted, including those which called for national concord and suggested "an amnesty, which should be as broad as possible within reasonable limits".

10. In November the government expelled four Dominican nuns from the country, three of whom were Argentinians and one Chilean, for alleged political activities.

A crusade against culture

11. Already in 1974 military operations had been conducted against bookshops, and books "following a marxist line" had been destroyed. Such was the case of "Pueblos Unidos", booksellers and publishers established in 1943,

devoted to covering expenses incurred in the maintenance of political prisoners. By providing that seizure of property takes place on the commencement of proceedings, without waiting for the verdict establishing guilt or innocence, it conflicts with the Penal Code, under which confiscation of objects used for committing a crime or property illegally obtained as a result of the crime may be authorized only after the charge has been fully proved (Penal Code, Article 105).

17. The procedure established by the new law has been applied to confiscate and hand over to the police and military forces premises said to have been used for meetings of members of a subversive organisation, the premises in question being the building where the railway workers' union had its headquarters, another housing the headquarters of the building workers' union, and another containing the offices and printing works of "El Popular", a daily paper, as well as property and assets belonging to the Secondary School Teachers Federation, and property and assets belonging to political parties and to students organisations which were declared illegal.

Extension of Military Penal Jurisdiction Bill

18. In November 1975 the Executive submitted a Bill to the Council of State (Consejo de Estado) designed to extend further the jurisdiction of military courts in the case of political offences. It states that all political case will now be subject to the military jurisdiction, whatever was the date of the offence. Until now the position has been as follows. Political suspects arrested after 10 July 1972 were made subject to the jurisdiction of military courts under the Law on the Security of the State (though the constitutionality of this law has been seriously questioned). Those arrested in the period 15 April - 10 July 1972 have also been tried and judged by military courts on the mere basis of a declaration of "internal state of war", an institution not provided for by the Uruguayan constitution.

19. Under this new law, even persons alleged to have committed offences prior to 15 April 1972 will be tried by military courts under the Military Procedure Code. Cases which have already been started in the civilian jurisdiction will be transferred to the military courts, whatever stage they have reached, providing sentence has not yet been passed.

The new law will, therefore,

- (a) make military courts competent retroactively to try offences committed prior to 15 April 1972;
- (b) attempt to give a cloak of legality to those proceedings under trial by the military courts in consequence of the Declaration of an internal state of war.

20. The passing of this new law is a clear indication of a considerable backlog in the courts, where proceedings concerning those arrested before April 1972 have not yet been completed. Furthermore, the text of the law contravenes the provisions of Article 8 of the American Convention on Human Rights (San José) signed in November 1969 by 12 States including Uruguay; (which has not yet come into force due to the fact that so

far it has only been ratified by two states). Article 8(1), referring to minimum judicial guarantees to be assured to any prosecuted person, provides *inter alia* for the right of any such person to be judged by a competent, independent and impartial judge or court, formerly established by the law.

21. Finally the new Law will suspend the "visita de cárceles y de causas" for the whole of 1976 as far as political offenders are concerned. This institution, regulated by the Penal and Penal Procedure codes, enables the Supreme Court of Justice twice a year, and within specified limits, to review all current proceedings and, where they think proper, to release prisoners conditionally, or terminate the proceedings on the grounds of insufficient evidence. A number of prisoners subject to the military jurisdiction have been released under this procedure in recent years. To deprive the Supreme Court of this power will remove one of the few remaining institutions subjecting the system of military justice to scrutiny by an independent judiciary.

Freedom of Association

22. Freedom of association and assembly continues to be severely restricted. No political activities may take place. The present situation is described by the Government as a "party political recess", which implies a ban on the functioning of political parties and on any other political activities.

23. Political parties had always played a very significant role in Uruguayan democracy since the birth of the independent Republic a century and a half ago. Since the Decree of 28 November 1973 dissolving and outlawing 14 political parties and groups and student unions, all political activities have been repressed. Where such activities involve the functioning of a banned political party or group, they constitute the crime of "subversive association" or "assistance to subversive association" under the Military Code, and are punishable with 2 to 16 years imprisonment. Political activities on behalf of a political group which has not been dissolved are punishable with an indefinite period of detention under "emergency security measures". This is so, in spite of the fact that there is no legal provision establishing the "recess" or suspension of those political parties which have not been dissolved.

24. Future prospects for lawful political activities are not encouraging. Both the President and the military chiefs have repeatedly stated that the general election due to be held under the Constitution in November 1976 would not take place on that date.

25. Restrictions on freedom of association apply even to professional bodies. Under an order of the Minister of the Interior, lists of candidates for elections to their directing boards or councils must be submitted in advance to the Minister. On 14 October 1975 the Minister ordered the Uruguayan Association of Notaries to refer back to police headquarters their list of candidates for their Board of Directors "in order that candidates having an ideological background incompatible with the democratic system (sic) be deleted from the said lists". When this was done the police ordered that 33 out of the 44 candidates be deleted. Among those eliminated were many who had no connection with marxist or left-wing parties. Notaries have not been notable as a particularly revolutionary sector of the population in Uruguay, any more than in other countries. This is typical of the action taken in relation to other professional bodies.

APPENDIX

Amelia Lavagna de Tizze. 29 April 1975. Age: 58

Arrested on 28 April 1975 with her husband who is accused of belonging to the Communist Party. Next day her daughter was told she had committed suicide and that her body could be collected but she was forbidden to open the coffin before burial. In view of this, and knowing the character of Mrs Lavagna de Tizze, her family were unable to accept that she had committed suicide and expressed the belief that she died as a result of torture or other ill-treatment by an army unit in the department of Maldonado (4th Regiment of Engineers). Following this, the daughter and son-in-law were arrested, and they and the husband are still held in detention.

Alvaro Balbi. 31 July 1975. Age: 34. Father of 4; a 5th child is expected

Arrested 29 July. Member of the Communist Party, a musician and an employee in a trading firm. On 31 July the body of Balbi was delivered to its relatives, who were forbidden to open the coffin. The family finally got a civil court order for a post mortem examination, which revealed a crushed chest, scorched genitals, damaged liver, fractured left leg, fractured skull. Balbi was killed in a military unit, but his body was handed over by the Police Intelligence Division (Political Police) in Montevideo. His father, a well-known educator, addressed a remarkable open letter to the Uruguayan President, describing the details of the case and urging an investigation.

Pedro Ricardo Lerena Martinez. 29 September, 1975. Age: 33; 2 daughters

Former official in the Agricultural Pension Fund (Caja Rural), a state organisation. Member of the Tupamaros. Arrested in May, his family were never to see him after that date. On 29 September a coffin containing his body was handed to his family, who were told that "he had hanged himself with the string with which a parcel containing food sent to him had been wrapped". It appears that he was tortured to death in the 9th Cavalry Regiment. On opening the coffin (despite an express prohibition) the family noted widespread burns in different parts of the body, particularly on the feet and back; both hands were broken; the head was bandaged; both legs were bruised. He had lost 20 to 30kg weight.

Carlos Curuchaga. 26 September 1975. Age: 63

A doctor of medicine, he lived in the town of Mercedes and was a member of the Broad Front (the former opposition coalition). He was arrested despite being convalescent following a stroke (hemiplegia). While detained in the Police Intelligence Division he had a further stroke which caused a renewed hemiplegia. He was taken to the Hospital de Clinicas (University Hospital), and an armed guard kept watch by his bed all the time. Dr Curuchaga did not recover and died on 26 September. His family believe that his second stroke was the result of torture or other ill-treatment.

C. Argenta Estable. 16 December 1975. Age: 64

Argenta, a former trade unionist of the National Port and Docks Association (ANP), was a member of the Socialist Party. On 16 December his body was delivered to his relatives from the military hospital. He had been arrested a few days before by the army and had since then been held "incomunicado".