# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA MIAMI DIVISION

CASE NO. 1:20-cv-24294-KMM

RAQUEL CAMPS, in her capacity as the personal representative of the ESTATE OF ALBERTO CAMPS,

EDUARDO CAPPELLO, in his individual capacity, and in his capacity as the personal representative of the ESTATE OF EDUARDO CAPPELLO,

ALICIA KRUEGER, in her individual capacity, and in her capacity as the personal representative of the ESTATE OF RUBÉN BONET,

and, MARCELA SANTUCHO, in her individual capacity, and in her capacity as the personal representative of the ESTATE OF ANA MARÍA VILLARREAL DE SANTUCHO, Plaintiffs,

v.

ROBERTO GUILLERMO BRAVO, Defendant.

#### EXPERT REPORT OF PROFESSOR JAMES BRENNAN

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#### I. INTRODUCTION

- 1. I have been engaged by Raquel Camps, Eduardo Cappello, Alicia Kruger, and Marcella Santucho ("Plaintiffs") in *Camps et al. v. Bravo*, Case No. 1:20-cv-24294-KMM (S.D. Fl.), to present my expert opinion on the following issues: (i) the socio-political situation in Argentina at the time of the Trelew Massacre and until 1983, when democracy returned; (ii) the human rights situation in Argentina during that period, and whether it would have limited the ability of the families of those killed or injured during the Trelew Massacre to seek justice; (iii) the socio-political reasons why justice for the Trelew Massacre continued to be elusive even following the return to democracy in 1983.
- 2. I offer the following expert report containing a statement of expected testimony, the reasons for this testimony, and any data and other information and materials considered in forming my expert opinion and testimony. I also provide information regarding my qualifications as an expert on Argentine history, describe my prior expert testimony, and confirm I am not receiving compensation for my participation in this matter.

## II. QUALIFICATIONS

3. Trained broadly as a Latin Americanist historian, I have devoted most of my scholarly career to research on Argentina, beginning close to thirty years ago. At present. I am a Professor of History at the University of California Riverside, where I teach modern Latin American history. Among my research interests are industry and labor, the political economy of Latin American populism, the Latin American left, political violence, human rights, twentieth-century revolution, and the history of capitalism. Before joining the faculty at University of California Riverside, I taught at Harvard University and Georgetown University.

- 4. I have written three books on the twentieth century history of Argentina, have been the editor of two others, and have published several journal articles and book chapters. Including, most recently *Argentina's Missing Bones: Revisiting the History of the Dirty War*, the first comprehensive English-language work of historical scholarship on the 1976-83 military dictatorship, Argentina's experience with state terrorism during that period, and this period's legacy, in particular the role of the state in constructing public memory and accountability. At present I am undertaking a book-length research project on the study of energy during the Second Industrial Revolution in the Americas and am writing a series of essays comparing various themes in Argentina's modern history to that of the United States.
- 5. I held postdoctoral fellowships from the Tinker Foundation, the Social Science Research Council, and the Fulbright Commission, including a Fulbright-Hays Scholarship which I undertook in Argentina, and I was a recipient of the University of California President's Research Fellowship in the Humanities, 1999-2000. For 2010-11, I was awarded a research fellowship from the National Endowment for the Humanities (NEH) and during the 2011-12 academic year I was a visiting fellow at the Woodrow Wilson International Center for Scholars in Washington D.C. while I wrote *Argentina's Missing Bones*.
- 6. I received my B.A. in History from American University in 1977, and an M.A. and Ph.D. in History from Harvard University in 1981 and 1988, respectively.
  - 7. My *curriculum vitae* and full list of publications is attached as Exhibit A.

#### III. PRIOR EXPERT TESTIMONY

8. I have not served as an expert witness in any cases in the previous four years, either at trial or by deposition.

#### IV. COMPENSATION

9. I am not being compensated for this expert report, except to reimburse me for reasonable expenses incurred while fulfilling my role as an expert. My opinions and testimony are not conditioned upon any payment.

#### V. EVIDENTIARY BASIS OF OPINION

- 10. In preparing this report, I relied on my personal knowledge, and professional expertise and research into Argentine and Latin American history, including years of research in Argentine archives, government collections, and oral histories I have collected over the course of my academic career. I submit this report in my capacity as an academic and expert historian in these fields.
- 11. In addition, I have consulted the Report of the National Commission on the Disappearances of Persons (CONADEP), *Nunca Más*, historical studies and academic articles written about Argentina during the relevant time period, reports produced by non-governmental organizations, Argentinean criminal court decisions, declassified U.S. government documents, and newspaper articles. The materials I consulted in preparing this report are listed in **Exhibit B**.

#### VI. SUMMARY OF CONCLUSIONS

- 12. In summary, my conclusions are as follows:
  - a. For nearly thirty years, until 1983, Argentina experienced a period of intense polarization and high levels of political violence, which hollowed out the rule of law and respect for human rights in Argentina. State repression during this time, which reached a tragic nadir during the 1976-

- 83 dictatorship, prevented the survivors and the families of the victims of the military's repression from seeking redress.
- b. Following the return to democracy in 1983, there was a brief opportunity to seek legal accountability for human rights abuses committed since the 1970s. However, a seditious military cut short the process, leading to the adoption of two laws, which effectively halted legal accountability. It would not be until 2005, when these laws were repealed under Nestor Kirchner and the Supreme Court of Argentina upheld the repeal, that legal accountability for these crimes would be possible in Argentina.

#### VII. REPORT

- A. An overview of the human rights situation and social tension in Argentina following the Second World War
- 13. At the time of the killing of the prisoners at the Almirante Zar Naval base in 1972, Argentina had experienced two decades of intense political polarization and escalating violence.
- 14. The final years of the government of Juan Domingo Perón (1946-55) were marked by growing tensions and conflict between the government and the Catholic Church, diverse political groups, and, especially, the military. Though Perón himself came from a military background, a colonel in the Army, tensions emerged over the course of his government as a result of attempted Peronist indoctrination of the armed forces, Perón's interference in promotions, and other institutional prerogatives, as well as a result of the conflict with the Church, which alienated many Catholic nationalist officers. Perón confronted a seditious military in his second administration, culminating in a June 16, 1955 naval bombardment of Perón's followers at a mass rally in the Plaza de Mayo in Buenos Aires, causing some three hundred

deaths and unleashing political turmoil that culminated with Perón's resignation the following September and the assumption of power by the armed forces, the first of extended periods of military rule that Argentina would experience in coming decades.

- attempted purge and erasure of all traces of the previous decade of Peronist rule, removing the busts and portraits of Perón and his wife and political partner, Eva (Evita) Perón, found in all the country's schools and public buildings, whisking out of the country Evita's embalmed body that lay in state since her death in 1952, censoring and prohibiting the very mention of Perón's name in the press (referred to as "the fugitive tyrant," "the fallen dictator"). At the same time, Aramburu's dictatorship launched a more violent campaign against Perón's working class followers, interdicting the national labor confederation, suspending collective bargaining, arresting labor leaders, and outlawing the largely working-class Peronist party. The most violent episode in the anti-Peronist purge was the arrest and execution by firing squad, of a pro-Peronist military officer, General Juan José Valle, and along with him some twenty-seven of his collaborators who had organized an uprising against Aramburu's government. The summary mass execution without recourse to a trial or legal defense was a forerunner to the events of the military dictatorships that followed.
- 16. To the military's now visceral anti-Peronism were added the influences of the Cold War. As the Cold War became globalized in 1950s, Latin America became part of the bipolar division between East and West. Anti-communism had long existed within the Argentine armed forces, but it now formed part of a sense of a global struggle, reflected in the publications of the *Colegio Militar* (Argentina's equivalent of West Point) and the *Escuela Nacional de Guerra* (similar to our Army War College), which disseminated both French theories of counter-

revolutionary war drawn from the anti-colonial uprising in Algeria and the so-called National Security Doctrine elaborated from diverse US sources which included domestic "subversion" as a legitimate concern, and sanctioned extreme measures for the military's planning and operations. Argentina's armed forces functioned isolated from and in many ways, hostile to the broader civil society. The military practiced a high degree of endogamy, lived in their own secluded communities, and gradually acquired a contempt for civilian democracy with a corresponding sense of its right, and indeed duty, to govern, as evidenced by the military's successive attempts to establish "order" in Argentina through dictatorship with no timetable to restore civilian democracy. Since 1930, Argentina experienced more periods of military rule than any country in South America save one, Bolivia, and the governments between 1955 and 1976 became increasingly authoritarian and violent, culminating with the 1976-83 dictatorship and the state terror employed in the so-called "dirty war."

17. The Cuban Revolution further polarized a deeply polarized society. In addition to the "Peronism question" a uniquely Argentine controversy about a uniquely Argentine political movement, the guerrilla war led by Fidel Castro and Argentina's native son, Ernesto "Che" Guevara, against the dictatorship of Fulgencio Batista and the subsequent revolutionary reforms on the island and entry into the socialist bloc, revitalized the Argentine left and encouraged revolutionary strategies directed especially against military rule. The proscription of the country's largest political force, Peronism, by the military governments, the increasing recourse to violence by the security forces against all forms of political mobilization and social protest, as well as the international demonstration effect Cuba and revolutionary movements in Latin America and elsewhere in the Third World had led to both the growth of the left and the adoption of direct-action tactics which included everything from social protest to armed struggle.

18. Even when civilian governments were in power, they found themselves subject to unremitting military pressure on issues related to national defense and internal security. As a result of such pressure, the democratically-elected government of Arturo Frondizi (1958-62) adopted the Plan Conmoción Interna del Estado (CONINTES) giving the armed forces broad powers to repress social protest throughout the 1960s. The army especially was enlisted, whether under civilian or military governments, to break strikes, arrest political dissidents, and to begin the first counter-insurgency campaigns against the left. In 1969, a peaceful demonstration by workers and university students in Córdoba, an industrial center and the country's second largest city, turned violent after security forces opened fire on the protestors. For two days the workers and students barricaded the city streets, and called for the end of the military dictatorship then in power. The army ultimately entered the city and took control of the occupied neighborhoods but at the cost of scores killed, hundreds wounded and thousands arrested, with many of the protestors, and in particular the labor movement leaders, subject to summary justice, tried by military tribunals and assigned long prison sentences swiftly within a matter of weeks of the protest, without respect for due process. This protest, subsequently dubbed the Cordobazo, was the signal event and turning point for the next decade when in the 1970s state-directed violence brought Argentina notoriety as a country with widespread violation of civil liberties and human rights abuses.

## 1. 1966-1973: Three Successive Military Regimes

19. Between 1966 and 1973 Argentina experienced three successive military governments: General Juan Carlos Onganía (1966-70), General Roberto Levingston (1970-71) and General Alejandro Lanusse (1971-73). The changes in the composition of the military governments responded to multiple factors, among them different economic policies (courting

investments from foreign multinationals under Onganía, more protectionist and nationalist under Levingston), but of primordial concern to each was the question of "internal security." Such security was increasingly viewed as incompatible with civilian democracy. Under Onganía, the Congress was shut down, elections suspended, universities shuttered, and political rights of all kinds abrogated. Once again, measures were implemented to weaken and disenfranchize the Peronist dominated labor movement, including banning collective bargaining and stripping the unions of their legal status (personería gremial). A strict press censorship was imposed and the country's extensive public university system was interdicted, classes suspended, professors fired and academic freedom terminated. In a particularly notorious incident now known as La Noche de los Bastones Largos ("The Night of the Billy Clubs"), a July 29, 1966 meeting of the Academic Senate of the University of Buenos Aires was broken up violently, leading to an exodus of some of the country's leading academics who found positions in foreign universities. The scaffolding of a national security state began to be constructed through government decrees such as the reestablishment of the death penalty during the Levingston government. Lanusse's government in particular gave attention to security matters, enhancing the surveillance powers granted to the Secretariat of Intelligence (SIDE) and mass arrests, imprisonment following trials in which there was a lack of due process and equality of arms, guilty verdicts were a foregone conclusion, and extended prison sentences resulted, as happened following a second social protest in Córdoba in March 1971.

20. Not all the violence of the 1970s was perpetrated by the military, the revolutionary left employed it as well though it was typically of a qualitatively different nature than the "terrorism" that the military accused it of. The *Cordobazo* certainly had the effect on the left of both creating new organizations and abandoning political strategies in favor of those of

direct action, whether in the form of social protest or armed struggle. With democracy suspended and with the epic quality of the *Cordobazo* a source of inspiration, new groups such as the *Ejército Revolucionario del Pueblo* (ERP) and the *Montoneros* adopted violent tactics in pursuit of a transformation of Argentina, what its mainly youthful cadres envisioned as the end of military rule and the establishment of a socialist state. These tactics included the launching of a rural-based guerrilla war in the Northwestern province of Tucumán, kidnappings to finance revolutionary activities, and attacks on military bases. The Peronist *Montoneros* also adopted a policy of targeted assassinations of enemies in reprisal for the murder of *Montonero* militants, an internal civil war of sorts within the Peronist movement.

- 21. Though such actions were certainly illegal under almost any legal regime, this violence cannot accurately be described as "terrorism" as that term is typically used in the field of political science. It was not an indiscriminate violence and did not target innocent civilians for purposes of sowing fear in society. Nothing comparable occurred in Argentina to the actions in these same years undertaken for example by Red Brigades in Italy planting a bomb in the Bologna train station and deliberately killing scores of innocent civilians. Even the left's most egregious act in these years, the *Montoneros*' kidnapping and execution of former military president, General Aramburu in May 1970, according to the *Monteneros* leadership was done in reprisal for Aramburu's execution of Peronist sympathizers during his presidency in the abortive Valle 1956 uprising, not as an act of "terrorism." The targets of the violence were members of the military or government who were seen as leading the fight against "subversion" and the left.
- 22. The military's response following the *Cordobazo* in 1969 and over the course of the Lanusse dictatorship to an emboldened and active left was violent, at times brutal, and generally disregarded established legal norms and basic human rights. The incidents of arbitrary

military violence were on the rise throughout the Lanusse dictatorship. Lanusse's government decreed an emergency anti-subversive law with special military tribunals established to try those accused of subversive activities. The arrest of the political prisoners who found themselves at Rawson and then at Trelew formed part of an escalating campaign that ignored human rights, including the rights to due process and to fair trial, and confronted the threat of the left with extreme and violent methods. At the same time, Lanusse sought to defuse the political tensions resulting from seven years of dictatorship and increasing demands for restoring democracy by lifting the proscription on the Peronist party and calling for elections, which finally took place May 1973.

incarcerated in the country's federal penitentiary system, subject to frequent transfers and generally denied access to family and, not being formally charged, to legal counsel. The "antisubversive" category, however, was not only applied to those organizations advocating armed struggle but to the entire spectrum of the Peronist and Marxist left, much of which did not support violent tactics. The Communist Party, for example, took a consistent position that armed struggle was not an appropriate strategy for Argentina and advocated a broad political front and a parliamentary leftism. But, according to the military, the "subversive threat" went well beyond the left to include trade union reformers, Catholic clergymen influenced by liberation theology, student volunteers working in literacy campaigns in the country's shantytowns, anyone whose actions seemed suspect for a military obsessed with ideas of order and fearful of perceived assaults on the national culture. The armed forces world view was profoundly traditional, its

<sup>&</sup>lt;sup>1</sup> AMNESTY INT'L, EXTRACTS FROM THE REPORT OF AN AMNESTY INT'L MISSION TO ARGENTINA 6-15 Nov. 1976 17-18 (1979) attached as Exhibit C.

ideal was a Catholic nation, patriarchal, hierarchical, and purged of ideas that questioned purportedly immutable established truths.<sup>2</sup>

Charges of "subversive" activities were thus not confined to membership in one 24. of the guerrilla organizations but applied to many individuals with no connection to the groups practicing armed struggle. An example would be the prominent trade union leader Agustin Tosco of Córdoba, one of the union leaders of the Cordobazo, arrested after the 1969 protests and then again in 1971. Tosco had no connection to groups advocating and practicing armed struggle, like the ERP and the *Montoneros*. His arrest and detention, like that of other leaders of the labor movement, was a result of his role in organizing strikes and participating in protests, not on any violent action. Tosco, like other political prisoners at this time, was initially imprisoned in the large penitentiary in Buenos Aires, Villa Devoto, and then moved to the Rawson Penitentiary in Chubut, a distant southern province, at the same time as those who would attempt the escape which led to the capture and murders of Trelew (Tosco did not participate in the attempted escape). The transfer of prisoners away from the major population centers in Buenos Aires and Córdoba to more remote locations like Chubut was intended, among other reasons, to prevent their imprisonment from becoming politically sensitive and rallying popular support, as had been the case with Tosco while imprisoned in Villa Devoto where caravans of supporters from Córdoba came to Buenos Aires to protest his incarceration and demand his rights to legal representation. It is likely that the prisoners eventually detained at Almirante Zar Naval Base were transferred to Rawson Penitentiary for similar reasons.

 $<sup>^2</sup>$  James Brennan, Argentina's Missing Bones Revisiting the History of the Dirty War ch. 1 (2018).

# 2. The 1973-76 Peronist Government: State Terror under Restored Democracy

- 25. The May 1973 elections restored democratic governance, the presidential victor, Héctor Cámpora, a Peronist whose election was widely viewed as merely a caretaker government to oversee Perón's return to country and to the presidency through new elections, which indeed happened in September of that same year. The three years of Peronist government witnessed an intensification of state sponsored violence that had been percolating in the culture for years and especially since the *Cordobazo*. A death squad directed by José López Rega from the Ministry of Social Welfare, the Argentine Anti-Communist Alliance (AAA), targeted especially *Montonero* and other Peronist left groups (Juventud Peronista, Peronismo de Base, among others) in an attempt to purge through paramilitary activities of abductions, torture, and assassination. In the early phase of this state terror, the death squads functioned largely independent of military control but cooperation between the AAA (and equivalent Peronist right organizations elsewhere in the country such as the Comando de Libertadores de América in Córdoba) and the military emerged over time, with shared intelligence but even some operative coordination until the military assumed full control of death squad activities by the end of the Peronist government and organizations such as the AAA were disbanded.
- 26. Victims of the state terror committed by government associated forces during the 1973-76 Peronist regime included journalists, intellectuals, lawyers, and others engaged in activities associated with certain professions that were viewed as sympathetic to or at least tolerant of subversive ideas. They included people like Silvio Frondizi, a prominent leftist intellectual and brother of former president Arturo Frondizi, Alfredo Curutchet, a human rights lawyer and defender of political prisoners, and Atilio López, former vice governor of Córdoba

province and trade union leader, all murdered by the AAA death squads.<sup>3</sup> State terror at this time encompassed more than death squads and included things like strict press censorship and a close surveillance and control of university life. The country's major newspapers were generally supportive of government authorities, both out of conviction and self-interest since much advertising revenue came from the federal government which also held a monopoly on the supply of newsprint, making opposition a risk for the very ability to publish. Those very few newspapers that covered accusations of human rights abuses, both during the Peronist government and the subsequent military dictatorship (1976-83) often were able to do so because of their small circulation and the minimal threat government authorities therefore perceived, as in the case of the English-language *Buenos Aires Herald*, though even the Herald's journalists experienced occasional threats and its editors were eventually forced into exile.<sup>4</sup> University curriculums were closely monitored and during the 1976-83 military dictatorship a wholesale purge of the university took place, with mass firings of professors and a loss of any semblance of university autonomy in administration and planning.

27. The 1973-76 Peronist government witnessed a further breakdown of democratic consensus and dialogue in the country. Repeated periods of military rule had weakened its institutions and undermined the credibility of the country's once promising democratic project. Argentina's economic challenges were serious but not the source of its problems. Endemic violence, blood feuds, a tribalization of political life, and a seditious military gradually reasserting its control over internal security were at the heart of its national crisis. The final year

<sup>&</sup>lt;sup>3</sup> Langer Report Ex. 15, Dr. Heleno Claudio Fragoso, Int'l Comm'n of Jurists, The Situation of Defence Lawyers in Argentina 9 (1975).

<sup>&</sup>lt;sup>4</sup> Andrew Graham-Yooll, *Letter from Argentina*, INDEX ON CENSORSHIP, June 1973, at 43-45.

of the Peronist government was consumed with the "subversive" threat. Perón's widow, vice president and successor to the presidency upon his death in July 1974 relinquished effective control to the military. A November 1975 proposed bill, supported by all the country's major political parties, ceded all control to the military in the "war against subversion" including powers to decree edicts that would circumvent the legislature and the establishment of military tribunals (*Consejos de Guerra*) of the kind seen in the aftermath of the *Cordobazo* with broad powers that overrode those of the civil courts. Only procedural chaos in the final months of Isabel Perón's government prevented the bill from becoming law but the draconian terms indicated the extent to which the military now wielded most power. A state of siege declared in November 1974 would continue under military rule and not be lifted until the reestablishment of democracy in 1983. The state of siege empowered Isabel Perón's government to undertake thousands of arrests contemporary with the activities of the rightwing Peronist death squad, the AAA.

## 3. 1976-1983: A Return to Military Dictatorship and the "Dirty War"

28. The March 24, 1976, military coup that removed Isabel Perón's government from power escalated the anti-subversive campaign, ushering in years of state terror which would bring Argentina notoriety as the site of some of the world's most egregious human rights abuses. Later dubbed the "dirty war" it was in fact a misnomer because by the time of the coup, the armed left had been militarily defeated, most of its leadership either dead or in exile, its ranks depleted and demoralized. If what followed was a "war", it was a war of extermination, not against armed guerrilla fighters but against those who held "subversive" ideas, whether trade

<sup>5</sup> Brennan, *supra* note 2, at 12.

<sup>&</sup>lt;sup>6</sup> Exhibit C, AMNESTY INT'L, *supra* note 1, 7-8.

unionists, party activists or university students. The state terror was unlike previous expressions of the military harsh security tactics, which were now clandestine and therefore deniable. The armed forces devised a well-integrated plan of intelligence gathering, systematic abduction, imprisonment in hundreds of secret detention centers, the largest of which functioned as veritable death camps, torture, and disappearance. In the new government, which dubbed itself the "Process of National Reorganization," the armed forces governed collectively, as a *junta*, with the Army, Navy, and Air Force as coequals though the Army commander, in this case General Jorge Videla, representing the largest branch and serving as president in this *junta*, as would the Army commanders in others that were to follow.

29. The architecture of the state terror had been years in planning. All evidence indicates that the events of Trelew and the national scandal that erupted as news of the killing of the prisoners became nationally and internationally known, triggered an internal debate within the armed forces about how to best conduct the anti-subversive campaign. The mass release of political prisoners upon Cámpora's assumption of the presidency further convinced the military that working through formal arrest, the courts and the federal penitentiary system which gave prisoners a visibility and, at least in theory, certain legal rights, had to be abandoned in favor of a clandestine campaign. The plan was for the armed forces collectively to undertake the clandestine campaign against the subversive threat. The first step was intelligence gathering by newly established and specialized groups within the armed forces to monitor and assemble files on suspected subversives. These were assigned to specific areas (the university, trade unions, among others) for intelligence gathering. In some cases, the intelligence provided by the Condor Plan, an agreement among the South American military governments to share information on the international movements of leftists and former political prisoners, provided supplemental

intelligence though the Argentine military's own intelligence efforts were always the most important since they made possible identifying the suspected individuals and networks of activists at the local level. Foreign influences on the dirty war remain a subject of debate. With their own strong institutional traditions and training programs, the Argentine armed forces relied less on US tutelage than other Latin American countries such as those in Central America. Argentina sent fewer officers to the School of the Americas and other officers training academies in the United States. French theories of counter-revolutionary war, widely disseminated in the *Escuela de Guerra* and *Colegio Militar* in the 1950s and 1960s, had a greater influence, though always adapted to the specific Argentine context.

30. Individuals identified as subversives were subject to abduction by so-called "task forces" (*grupos de tarea*). These were not specialized units within the armed forces but rather groups assembled by the military and comprised of a diverse and often motley collection of off-duty police officers, union thugs, even some criminal elements, together with low-ranking military personnel under the command mainly of junior officers. The generals who ran the country and gave the orders were not direct participants in the abductions. These kidnappings could occur anywhere and at any time of the day though there was a preference for night abductions in the individual's place of residence rather than in broad daylight in the public space or workplace. A neighborhood would typically be cordoned off by the police, who were fully integrated into repressive apparatus and under military command. The task forces would burst into homes, often ransack them, threaten other family members, blindfold and abduct the targeted individual at which point they were taken to one of the hundreds of detention centers in

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<sup>&</sup>lt;sup>7</sup> Brennan, *supra* note 2, ch. 2.

<sup>&</sup>lt;sup>8</sup> Brennan, *supra* note 2, ch. 5.

the country, where they would be tortured and interrogated. Those who the military viewed as the most important and influential activists, were then transferred to one of the half dozen death camps that the military had begun to prepare in the final year of the 1973-76 Peronist government and were fully functioning by the time of the March 1976 coup.

- terror and the clearest manifestation of the premediated nature of the military's plan to deal with the subversive threat by extreme and illegal methods. It appeared that the public scandal that erupted with the Trelew killings convinced the military leaders that incarceration should be done outside the public penitentiary system, in sites that were clandestine and run solely by the military. Most of these camps were located in military bases such as the infamous *Escuela Mecánica de la Armada* (ESMA), the largest of the death camps on the grounds of the Navy's officer training school in Buenos Aires. Others such as La Perla, on the outskirts of Córdoba and the largest death camp in the country's interior, were constructed specifically for the purpose of brief detention in preparation for execution. A lengthy trial of the Army commander Luciano Benjamín Menéndez and others implicated in the overseeing the operations of the La Perla death camp proved the deaths of nearly a thousand prisoners there.<sup>9</sup>
- 32. There was some variation in the workings of the death camps. Studies of the ESMA camp argue that rehabilitation and release for some prisoners was possible, particularly those who were members of Peronist left organizations such as the *Montoneros* and its political surface organization, the *Juventud Peronista*, viewed as "salvageable" by the military authorities because of their nationalist ideals versus the Marxist orientation of such groups as the PRT-

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<sup>&</sup>lt;sup>9</sup> See Brennan, supra note 2, chs. 3, 6; see generally Tribunal Oral en lo Criminal Federal No. 1 [Federal Oral Criminal Court No. 1], 24/10/2016, "Causa La Perla," (Arg.), available at <a href="https://www.cij.gov.ar/adj/pdfs/ADJ-0.964064001477324616.pdf">https://www.cij.gov.ar/adj/pdfs/ADJ-0.964064001477324616.pdf</a>.

ERP.<sup>10</sup> Survivors in any of the camps, however, were few. Death came multiple ways, by firing squad, dropped sedated from airplanes into the ocean, heart failure in torture sessions. Bodies were disposed of, cremated in crude crematoriums on death camp grounds, buried in mass graves in public cemeteries, dumped into the sea. These were the *desaparecidos*, the disappeared, Argentina's doleful contribution to the international vocabulary on human rights and crimes against humanity.

and activism. Prisoners were assigned a number, extensive files were compiled on the family history, political allegiances, and activism. Prisoners were never kept long, usually never more than a few weeks before their execution, to make rooms for new contingents of abductees. Prisoners were generally blindfolded and handcuffed to their cots, communication between them forbidden. The first days were spent under interrogations with accompanying torture and emotional and verbal abuse. The torture methods varied, electric shock, called *picana*, a common method since maximum torment could be applied to the body and its more prurient parts without leaving incriminating marks. Other common methods, physical beatings, mock executions, heads held underwater until the point of unconsciousness—a method the torturers called the "submarine"—and indeed the state terror introduced an entire new lexicon to the Argentine language referring to methods and instruments of the torture and to anonymous death. In addition to the *desaparecidos*, there were those who were sucked up (*chupados*) or smoked (*fumados*), synonymous with the disappeared status.<sup>11</sup> To maintain their clandestine nature, the death camps

<sup>&</sup>lt;sup>10</sup> See Andrés Di Tella, *La vida privada en los campos de concentración*, in Historia de la Vida Privada en la Argentina [The private life in the concentration camps, in History of private life in Argentina], 88-89 (Fernando Devoto and Marta Madero eds. 1999); Antonius Robben, Political Trauma and Violence in Argentina, ch. 12 (2005).

<sup>&</sup>lt;sup>11</sup> MARGUERITE FEITLOWITZ, A LEXICON OF TERROR: ARGENTINA AND THE LEGACIES OF TORTURE 57-69 (rev. ed. 2011).

themselves were assigned names by the military: the Little School, the Reformatory, and the Pearl. All branches of the armed forces participated in the state terror, in the administration of the camps, and in the disappearances, creating a kind of blood pact in which culpability was equally shared and to maintain unity in the ruling junta on the state terror methods.

34. The clandestine centers and at their apex the death camps distinguish the experience of political prisoners during earlier dictatorships between 1966-72 who had been incarcerated in federal penitentiary, from what happened during the 1976-83 military dictatorship. Internal security legislation decreed during the Lanusse dictatorship and then extended under the 1973-76 Peronist governments mattered little during the clandestine "dirty war" which functioned completely outside the court system and national laws. The 1970-71 Levington government had reestablished the death penalty for purposes of swift and definitive justice for those accused of subversive activities. There is not a single known case of a death sentence being handed down under the state terror of the 1976-83 dictatorship. The tens of thousands who were the disappeared never had legal representation, never stood in court, never faced a judge. Assignment to a federal penitentiary after detention was at the discretion of military commanders who wielded near absolute power in the discrete zones that the country had been divided up into to wage the dirty war. Incarceration in a federal prison did not necessarily spare a prisoner from physical and emotional abuse and even death as the case of the UP1 penitentiary in Córdoba early in the dictatorship with a dozen murdered demonstrated. 12 But the practice quickly became to separate those slated for the death camps and disappearance from prisoners deemed of lesser consequence who were sent to the federal penitentiary system where they became visible, could receive family visitations and in some cases even legal representation.

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<sup>&</sup>lt;sup>12</sup> Brennan, *supra* note 2, ch. 6.

All prisoners, in federal prisons or not, were subject to frequent transfers until the military authorities finally decided their ultimate status, transfers fell largely to the air force and often covering great distances.

- 35. The numbers of the disappeared remains a point of debate, intense emotional debate for family members but also among forensic anthropologists, human rights organizations, and scholars who study the dictatorship. <sup>13</sup> The truth commission, "The National Commission on the Disappeared" (CONADEP) formed after the fall of the military government gave a figure of a little less than 10,000. <sup>14</sup> Organizations of family members such as the Mothers of the Plaza de Mayo have long been claiming a figure of 30,000 disappeared while the Argentine Forensic Anthropological Team has been able to document only the remains of approximately 7,000 of the disappeared. Historians and other social scientists who specialize in human rights and the study of the dictatorship have reached a consensus in recent years that the CONADEP figure is low and 30,000 claimed too high. Admittedly fragmentary evidence indicates a figure somewhere in between. These numbers also cover only the disappeared, do not take into account those who were abducted, interrogated, tortured, and later released, thousands more.
- 36. A particularly heinous crime that formed part of the state terror was the black market in babies. Pregnant prisoners were kept alive until giving birth, often before term in Caesarian procedures, at which point they would be killed and the infants put up for adoption, a practice facilitated by a corrupt judiciary in what amounted to a business enterprise that allowed military families and others to raise as their own children the babies of the mothers murdered and

<sup>&</sup>lt;sup>13</sup> Alison Brysk, *The Politics of Measurement. The Contested Count of the Disappeared in Argentina*, 16 Hum Rts. Q. 676 (1994).

<sup>&</sup>lt;sup>14</sup> See CONADEP, REPORT OF THE NATIONAL COMMISSION ON THE DISAPPEARANCE OF PERSONS (CONADEP), Nunca Más [Never Again] (1984), available at http://www.desaparecidos.org/nuncamas/web/english/library/nevagain/nevagain\_001.htm.

disappeared in the death camps. The CONADEP report estimated that some four hundred babies were adopted in this manner during the dictatorship.

37. The military's decision to disappear those abducted and indeed to never acknowledge any facet of the clandestine state terror until years later was calculated to avoid the consequences of what had happened in Trelew, the political fallout of which fatally weakened its legitimacy and hastened the restoration of civilian rule. The military authorities were also concerned about the potential international repercussions, of governments and human rights organizations such as Amnesty International which were growing in membership and influence in these years precisely due their involvement in campaigns to publicize and document the human rights violations taking place throughout Latin America in the 1970s. <sup>15</sup> The first two years of the dictatorship witnessed nearly all the disappearances and by 1979 the death camps had been dismantled with only sporadic abductions and disappearances thereafter. A human rights investigatory committee from the Organization of American States sent to Argentina in 1979 had raised alarm about the human rights situation in Argentina. The new Carter administration with human rights emphasis in its foreign policy to single out Argentina for sanctions against the ruling junta. Amnesty International and other human rights organizations documented conclusively the extent of the crimes that had been perpetrated.

## B. Attempts at Accountability and the Return to Democracy

38. Society's response to the human rights right abuses was initially tepid. There was broad support for the March 1976 coup among the population, weary of the chaos and endemic violence that characterized the 1973-76 Peronist government, affording the military a free hand

 $<sup>^{15}</sup>$  See Patrick Kelly, Sovereign Emergencies: Latin America and the Making of Global Human Rights Politics 5-11.

in waging what was after all a clandestine state terror whose workings were unknown by the vast majority of population save those directly affected by it. Rumors of abductions, death camps, and disappearances circulated widely but most chose to ignore or even deny their existence. As accusations of human rights abuses intensified from foreign government and international human rights organizations, the military government denied all charges and used all means at its disposal to discredit them, most infamously during the 1978 World Cup soccer events, hosted in Argentina, in which the government mounted a major propaganda offensive, making the slogan of the World Cup events, printed on billboards and programs, a play on the words "derechos humanos" (human rights) "Los argentinos son derechos y humanos" ("Argentines are honorable and humane"). The Catholic Church, long a bastion of anti-Peronism and anti-communism and heavily dependent of state financial support, also contributed its considerable moral authority in a country where over 90% population identified as Roman Catholic, to denounce the subversives and deflect criticisms of the military government as part of an international smear campaign against Argentina. Similar ideas were promoted in the public educational system, closely controlled by the government in curriculum matters, and with free speech harshly censured. State terror could reach the very young. In a particularly notorious event now known as "La Noche de los Lápices" ("The Night of the Pencils") in September 1976, students in a high school in La Plata were arrested and murdered for suspected political activity, a similar event occurred in Buenos Aires at the country's elite public high school, Escuela Superior Carlos Pellegrini, where a group of students were abducted and entered the ranks of the disappeared after painting political slogans on city walls.

39. The silence of the vast majority population contrasted with a small but outspoken group of family members of the disappeared, known as the Mothers of the Plaza de Mayo. A

year after the coup, in 1977, these mothers began their weekly marches around the central plaza in Buenos Aires, the civic heart of the country. With white headscarves and enlarged photos of their children on posters with captions such as "Where are they?" their symbolic protests caught the attention of international human rights groups which soon offered moral and financial support but resonated much less initially with the Argentine population at large. Other human rights organizations similarly counted on small numbers. The Servicio Paz y Justicia (SERPAJ), founded by future Nobel peace prize winner, Adolfo Pérez Esquivel, devoted itself to an international campaign to publicize the military's crimes. The largest of the human rights organizations, the Permanent Assembly on Human Rights, had several thousand members organized in chapters throughout the country. Established before military rule, during the 1973-76 Peronist government as the death squad activity intensified, its principal activity was documenting cases of human rights abuses and disseminating information among the population at large in an attempt to raise consciousness about the crimes taking place. There was also a group of human rights lawyers grouped in the Center for Legal and Social Studies (CELS) that represented political prisoners, filed writs of habeas corpus (unfailingly ignored by the compliant judiciary appointed by the military), and engaged in sundry other activities of a legal nature.

40. CELS and lawyers generally who were willing to take on human rights cases faced almost insurmountable obstacles in getting effective legal redress during the dictatorship. Lawyers acting as defense counsel for political prisoners faced threats to their physical integrity. Indeed, Raúl Alfonsín, one of the founders of the Permanent Assembly on Human Rights and the first democratically elected president following this dictatorship, had been an active human rights lawyer during the dictatorship, acting as a defense lawyer for political prisoners, filing writs of habeas corpus motions, speaking out publicly and denouncing the forced disappearances,

and received many death threats for his work during this time. Moreover, the court system was full of military appointees and in a clandestine war whose very existence the military denied, recourse to the courts was an impossible endeavor.

- A1. In 1982, during the final iteration of the military junta, president General Reynaldo Bignone finally publicly acknowledged the military's involvement in what he now characterized as a "dirty war" and decreed a broad amnesty for the armed forces, the "Law of National Pacification." The eighteen months of Bignone's government also witnessed the systematic destruction of incriminating evidence—military archives, prisoner dossiers, among others—in an effort to erase any trace of the state terror that transgressed activities that could be legitimately described as of a "military nature' and legitimate acts of war, as nearly all of its actions of abductions, torture, and disappearances did.
- 42. Its authority weakened by a brief but disastrous war with the British over the Falklands Islands (Islas Malvinas) in 1982, the military government was increasingly on the defensive on the human rights issue in the final phase of the dictatorship. Society had an, admittedly belated, awakening on the crimes perpetrated by the juntas and the issue figured prominently in the 1983 presidential election won by Raúl Alfonsín of the *Unión Cívica Radical* (UCR) party. The Peronists lamentable record on human rights during the 1973-76 administration of Juan and Isabel Perón contrasted sharply with Alfonsín's record on the issue and was likely the decisive factor in his electoral victory. Promising justice and accountability for the recent crimes, presented a bill, unanimously approved in the Congress, nullifying the military's amnesty. Alfonsín initially entrusted the military to participate in the process, reforming the Code of Military Justice to allow first a military review of the crimes followed by a civilian one. When it became apparent that the military was stonewalling and would not

examine the actions of the former commanders, the military tribunals ultimately proclaiming that the actions of the juntas were appropriate, Alfonsín passed the cases to the civil courts.

- the end of the year. The graphic testimony of hundreds of witnesses left no doubt of the scale of the tragedy, of the egregious human rights abuses perpetrated by the dictatorship, including mass murder. Alfonsín's simultaneous establishment of the CONADEP truth commission to investigate the fate of the disappeared offered irrefutable proof that the military had violated basic human rights over a period of years of a kind and on a scale that constituted crimes against humanity. The lengthy prison sentences handed down to the military commanders distinguished Argentina from the rest of Latin America where outgoing military dictatorships guilty of crimes of their own were granted amnesties or simply exited power with no demands for accountability and justice. Human rights groups in Argentina, however, were not satisfied and demanded continued litigation, indicting lower-ranking officers who were often the ones carrying out the orders of the generals and directly involved in the abductions, tortures, and disappearances.
- 44. Unrest in the barracks over the trials, visible in the bombing of shop windows in protest and the public demonstrations by an organization representing the military and their still many civilian sympathizers, the Family Members of Those Killed in the Subversion ("FAMUS"), persuaded Alfonsín that additional trials would invite deeper polarization and risk the process of subordinating the military to civilian rule and rebuilding democracy, only recently restored and institutionally still fragile. This was the rationale for the passage of two laws, the End Point Law (*Punto Final*) in 1986 and Law of Dutiful Obedience (*Obediencia Debida*) in

1987 following the trials. <sup>16</sup> The first established a statute of limitations on future trials and the second mitigated guilt on the basis of carrying out orders, effectively an amnesty for all officers below the rank of colonel. Neither law prevented prosecution for aberrant crimes such as the black marketing of children. The End Point Law did lead to a flood of lawsuits filed before the sixty-day statute of limitations to file new lawsuits took effect, but clearly was intended to bring to a conclusion litigation on the human rights question now seen by the Alfonsín administration as a liability for democratic consolidation. The laws enraged human rights groups and did little to mollify the military, as demonstrated in several abortive uprisings led by junior officers known as the *carapintadas* (for the combat camouflage paint worn on their faces) that came dangerously close to overthrowing Alfonsín's government. Civil society and human rights organizations, such as CELS and the Mothers of the Plaza del Mayo, continued to push for justice and accountability but both laws nonetheless remained in force and the human rights issue lost much of its urgency with a society immersed in a deepening economic crisis and much less engaged in the human rights question.

45. Alfonsín's successor, Carlos Menem, governed the country from 1989 to 1999. Upon assuming office, Menem, a Peronist, issued in October 1989 pardons for several hundred still facing indictments, a number of them some of the most notorious individuals from the dirty war. A final uprising of the *carapintadas* early in his administration, in 1990, and no particular personal interest in the human rights question, led him subsequently to issue pardons for the convicted junta members. All discussion of the crimes of the dictatorship vanished from public debate for a decade. The various human rights organizations remained active, the weekly vigils

<sup>&</sup>lt;sup>16</sup> While I refer to these laws as the End Point Law and the Law of Dutiful Obedience, other academics refer to them as the Full Stop Law and Due Obedience Law respectively.

of the Mothers of the Plaza de Mayo continued, the forensic anthropological team continued with their exhumations, but none of the major political parties championed human rights as Alfonsín and his party the UCR had in the 1983 electoral campaign, and the population at large showed little interests in the issue as the country's economic situation deteriorated with rising levels of unemployment and urban poverty. This situation changed only after the country's historic default on its foreign debt in late 2001, a collapse of its banking system, and social disturbances throughout the country led to a reconfiguration of Argentina's politics and the terms of political debate.

46. Looking for a political identity distinct from that of Menem's neoliberal program, including Menem's abandonment of the human rights issue, a dissident faction within Peronism led by Nestor Kirchner embraced human rights as central part of its platform, winning the 2003 election against Menem and for the first time since Alfonsín promising to prioritize the unfinished business of justice and accountability for the crimes of the dictatorship. Upon assuming office, Kirchner oversaw the repeal of the End Point and Dutiful Obedience laws, empowered government attorneys to indict and bring to trial not only the pardoned junta members but now junior officers, police and even civilian collaborators of the former dictatorship. An explosion of criminal litigation occurred in courts throughout the country. Some trials lasted years, with dozens of accused, hundreds of witnesses and life sentences handed down, multiple ones in the case of some, like former Army commander and president Jorge Videla. Kirchner also established public memory sites—including several former death camps transformed into museums—assembled documentation centers for purposes of litigation and research, greatly expanded the staff and powers of the Secretariat of Human Rights (its offices moved to the grounds of the ESMA death camp in 2015), and included human rights

organizations as part of his ruling coalition. The trials came into abrupt halt with the election in 2015 of the center-right government of Mauricio Macri, though a few prosecutions continued such as that of two former Ford executives, Argentine nationals, accused of collaborating with the military in the abduction of union activists in the Ford plants, both convicted and given lengthy prison sentences in 2018.

- still unresolved killings at Trelew nearly fifty years ago. Unlike the clandestine dirty war whose victims only became known years later, the killings of the prisoners at the Almirante Zar Naval Base, despite government censorship discussed below, was almost immediately a major public scandal. The successful escape of some of the prisoners who were offered exile in Chile provided a platform to recount the events surrounding their imprisonment. Investigative journalism offered extensive coverage and Trelew even became a cause celébre among the intelligentsia. The events at Trelew were the inspiration for the novel *Libro de Manuel* (1973) by Argentina's most renowned writer, Julio Cortázar, who donated the royalties to organizations representing the country's political prisoners. Other writers such as Francisco Urondo (*La patria fusilada*) and Tomás Eloy Martínez (*La pasión según Trelew*) provided "exposés" of the massacre that widely circulated and provided specific details on the alleged perpetrators and victims
- 48. Despite their public nature, the Trelew killings proved difficult to litigate.

  Litigation following arrests and imprisonment such as occurred after the *Cordobazo* had generally long faced daunting obstacles. Military tribunals enacted swift sentences and expedited assignments to one of the half dozen federal penitentiaries in the country, often before legal

 $^{17}$  Luis Alberto Romero, A History of Argentina in the Twentieth Century 376-77 (James P. Brennan trans., rev. ed., 2013).

interventions could be made. Subject to frequent transfers and often never formally charged, for prisoners and their families the absence of legal counsel was the norm rather than the exception because lawyers who were willing to represent political prisoners often paid with their lives. In addition to the obstacles that military rule presented for legal representation, pursuing legal remedies was hindered by the End Point and Dutiful Obedience laws from the Alfonsín era as well as Argentina's longstanding policy of refusing extradition of citizens, some of whom had at that time been indicted by European courts for the death and disappearance of French, Spanish, and other foreign nationals detained and disappeared in Argentine during the dictatorship.

During the Menem presidency, the courts were packed with judges who supported Menem's pardons, virtually eliminating the possibility of any further litigation on the human rights issue.<sup>18</sup>

49. The events at Trelew proved particularly immune from legal redress. The Lanusse government's decree No. 19797 enacted on the night of August 22, 1972, criminalized the reporting of the events at the Almirante Zar Naval base based on any but the military's version of events, which were rendered as a failed escape attempt. Journalists who tried to cover the story suffered censorship and death threats. <sup>19</sup> Two prominent lawyers, Mario Abel Amaya and Rodolfo Ortega Peña, who had represented Trelew prisoners and denounced the Navy's actions, were murdered in subsequent years and a third, Hipolito Solari Yrigoyen, was a victim of bomb

<sup>&</sup>lt;sup>18</sup> T. Roehrig, *Executive Leadership and the Continuing Quest for Justice in Argentina*, 31 Hum. Rts. Q. 721, 736 (2009).

<sup>&</sup>lt;sup>19</sup> See e.g., Periodista recuerda cómo fue baleado en Rawson hace cuarenta años cubriendo la fuga de la U6 [Journalist recalls how he was shot in Rawson forty years ago while covering the U6 excape], EL CHUBUT (Aug. 16, 2012 12:05 AM) <a href="https://www.elchubut.com.ar/regionales/2012-8-16-periodista-recuerda-como-fue-baleado-en-rawson-hace-cuarenta-anos-cubriendo-la-fuga-de-la-u6">https://www.elchubut.com.ar/regionales/2012-8-16-periodista-recuerda-como-fue-baleado-en-rawson-hace-cuarenta-anos-cubriendo-la-fuga-de-la-u6</a>; Langer Report Ex. 5, Tribunal Penal Oral Federal [Federal Oral Criminal Court], 15/10/2012, "In re: Rubén Norberto Paccagnini, Luis Emilio Sosa, Carlos Amadeo Marandino, et al.," (Arg.) (Judgment, Case No. 979) (certified English translation) [hereinafter Paccagnini (2012)] at 68 (Testimony of Hector Gabriel Castro), at 114 (Testimony of Aldo Alvarez).

attacks in his car and home and forced into exile. <sup>20</sup> The 1973-76 Peronist government's sharp turn to the right with the death squads, anti-subversive legislation, and increasing reliance on the military reduced the possibilities even more of working through the courts, which vanished almost completely with the March 1976 coup. In the years following the Trelew massacre, family members of the prisoners were harassed, threatened, forced into exile, and even murdered. For example, on the third anniversary of the Trelew massacre, the rightwing death squad, "Comando Libertadores de América", a paramilitary group with close ties to the Army's Third Corps based in Córdoba, kidnapped and killed the parents, brother and sister of Mariano Pujadas, one of those killed in Trelew. <sup>21</sup> Surviving family members fled to Spain. <sup>22</sup>

50. The Santucho family's story is similarly tragic. Mario Roberto Santucho, a leading figure of the non-Peronist left, successfully escaped from the Admiral Zar Naval Base but his wife, Ana María Villareal de Santucho, did not and was killed along with the other fifteen people killed at Trelew. Santucho died several years later, a few months after the 1976 coup, in a firefight with security forces. Several members of the Santucho family were disappeared, others went to into exile.<sup>23</sup> Exile was the fate of many of the families of the political prisoner's killed in Trelew who were confronting persecution and threats.

<sup>&</sup>lt;sup>20</sup> U.S. Dept. of State Telegram, Doc. No AL082A, Subject: *Hipolito Solari Yrigoyen*, June 1977 attached as Exhibit D; Langer Report Ex. 17, Cable U.S. Embassy Buenos Aires to Sec. State Washington D.C., Subject: Disappearance of UCR Legislators (Aug. 20, 1976).

<sup>&</sup>lt;sup>21</sup> See e.g., Dunkerley, *The Civilized Detective: Tomás Eloy Martínez and the Massacre of Trelew*, 31 Bulletin of Latin Am. Res. 445, 451 (2021).

<sup>&</sup>lt;sup>22</sup> Langer Report Ex. 5, *Paccagnini* (2012) at 121–123, 139.

<sup>&</sup>lt;sup>23</sup> Mark Dowie, *The General and the Children*, MOTHER JONES, July 1978, at 42, 48 *available at* <a href="https://books.google.com/books?id=oOYDAAAAMBAJ&lpg=PA1&ots=NtzWR1YT3c&dq=Mark%20Dowie%2C%20The%20General%20and%20the%20Children%2C%20MOTHER%20JONES%2C&pg=PP1#v=onepage&q&f=false; Tribunal Oral en lo Criminal Federal No. 1 [Federal Oral Criminal Court No. 1], 09/08/2016, "Plan Cóndor," (Arg.) at 5213, 5215, *availible at* <a href="https://www.cij.gov.ar/nota-22663-Lesa-humanidad--difundieron-los-fundamentos-de-la-sentencia-por-el--Plan-C-ndor--.html">https://www.cij.gov.ar/nota-22663-Lesa-humanidad--difundieron-los-fundamentos-de-la-sentencia-por-el--Plan-C-ndor--.html</a> (finding military officer Miguel Ángel Furci guilty of unlawful detention and torture of, *inter alia*, Carlos Santucho, Manuela Santucho, and Cristina Navajas de Santucho); Langer Report Ex. 12, Ass'n of the Bar of the City of New York, *Report of the Mission of Lawyers to* 

51. Nestor Kirchner's nullification of the End Point and Dutiful Obedience laws, as well his ending the ban on extradition of military personnel, lifted the major obstacles to litigation for the military's crimes, though witness intimidation continued following the return to democracy and well into the twenty-first century, according to witnesses who testified in the trials relating to the La Perla death camp and in criminal proceedings in Spain related to the 1976 - 83 dictatorship, <sup>24</sup> and it would take several years for the court system to reverse the pardons of the Menem government. Once the laws were deemed unconstitutional by the Supreme Court (2005) criminal litigation began that would last a decade and continue to this day. Trials occurred throughout the country, with Buenos Aires, Córdoba, and Tucumán experiencing the longest and most important trials. The longest trial of all, involving those accused of unlawful detention, torture and disappearance in the La Perla death camp, lasted nearly four years, with 45 defendants, 417 plaintiffs, and 900 witnesses. A vast number of individual charges led to guilty verdicts for Army commander Luciano Benjamin Menéndez and other military, police, and civilian collaborators.<sup>25</sup> Contemporary with the La Perla trial was that of those charged with the Trelew murders, leading to guilty verdicts in 2012 of officers who participated in the killings.

Argentina, April 1-7, 1979, U.S. State Dept. Declassified Document, Argentina Project (S200000044), May 22, 1979; Langer Report Ex. 13, Letter from Francisco Santucho and Manuela Juarez de Santucho to President James Carter (Oct. 19, 1977); Langer Report Ex. 14, Memorandum from the American Embassy in Buenos Aires to the U.S. Sec. of State 4 (Aug. 16, 1978) (noting that Graciela Santucho, Amilcar Santucho's daughter was in detention); see also Langer Report Ex. 15, FRAGOSO, supra note 3, para. 4 (March 1975) (including Amilcar and Manuela Santucho in a list of lawyers threatened with murder by the AAA).

<sup>&</sup>lt;sup>24</sup> See, e.g., Danilo Albin, Amenazas testigos presiones politicas historia oculta juicio videla espana [Threats to witnesses and political pressure: the hidden history of the Videla trial in Spain], PúBLICO (Dec. 15, 2017, 12:07 PM updated Dec. 18, 2017,7:53 AM) <a href="https://www.publico.es/sociedad/amenazas-testigos-presiones-politicas-historia-oculta-juicio-videla-espana.html">https://www.publico.es/sociedad/amenazas-testigos-presiones-politicas-historia-oculta-juicio-videla-espana.html</a>.

<sup>&</sup>lt;sup>25</sup> Brennan, *supra* note 2, at 84-85.

#### VIII. CONCLUSIONS

- 52. Argentina for a period of nearly thirty years, from Perón's final years in power during his first presidency until the fall of the military dictatorship and restoration of democracy in 1983, was an intensely polarized society with high levels of political violence. Repeated periods of military rule undermined its once promising democratic development and society responded to authoritarian governments with social protests such as the Cordobazo and organizations like the ERP and Montoneros that advocated direct confrontation with government authorities as part of a broader revolutionary project. In a country where violence increasingly became the final arbiter in political disputes, the rule of law was hollowed out. Argentina gained international notoriety in the 1970s for the human rights abuses that left a trail of victims, reaching a tragic nadir with the 1976-83 dictatorship with its death camps, desaparecidos, and black market in children. In such a context, the chances of successfully seeking legal redress for the Trelew killings were slim to none. As the fate of the Pujadas family demonstrates, even the brief period of democratic governance in that decade did not provide an opportunity for the families seeking accountability, a situation that only worsened with the military dictatorship that followed.
- 53. The Alfonsín government provide a brief opportunity to work through the courts to seek accountability for the human rights abuses that had occurred in Argentina since the 1970s, but a seditious military cut short the process, leading to enactment the End Point and Dutiful Obedience laws, which effectively halted these legal processes. It would not be until the repeal of those laws under Nestor Kirchner and until the Supreme Court of Argentina confirmed this repeal was proper in 2005 that criminal litigation for the crimes perpetrated would again begin and legal accountability would be possible.

# **EXHIBIT A**

### James P. Brennan

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### **Education**

1977	American University, Washington D.C. B.A. in history, summa cum laude
1981	Harvard University, Cambridge, Mass. M.A. in history
1988	Harvard University, Cambridge, Mass. Ph.D. in history

### Academic Honors. Fellowships, and Awards

1983-84	Tinker Foundation Summer Dissertation Research Grants
1984-85	Fulbright Scholar in Argentina
1989	Tinker Foundation Junior Faculty Research Award
1990-91	Social Science Research Council Postdoctoral Research Grant
1995-96	Fulbright "American Republics" Postdoctoral Research Grant
1998	University of California Regents' Research Fellowship
1999-2000	University of California President's Research Fellowship in the Humanities
2010—2011	National Endowment for the Humanities Research Fellowship
2011—2012	Woodrow Wilson International Center for Scholars Fell

### Academic Positions

1988-1990	Lecturer, Department of History, Harvard University, Cambridge, Mass.
1990-1991	Visiting Scholar, École des Hautes Études en Sciences Sociales, Centre des Recherches Historiques, Paris.
1993-1996	Visiting Assistant Professor, Department of History, Georgetown University, Washington D.C.
1996-present	Professor, Department of History, University of California at Riverside, Riverside, California Promoted to Associate Professor 2000, Full Professor 2010

#### Research Interests

Research Languages

Twentieth-Century Latin America Modern Argentina (social, cultural, political) Peronism, Populism, Political Culture Capitalism, Political Economy Political Violence, Human Rights World, Global Processes, Environment and Public Health

English, Spanish, Portuguese, French and Italian

*Current Research:* Presently working on two book projects. I am completing a book on the history of energy, public health and the environment in the Americas during the Second Industrial Revolution (1870—1930). I am also conducting research for a history of state terror in Brazil and the Southern Cone during the military dictatorships of the 1960s and 1970s.

#### **Publications**

#### **Books**

The Labor Wars in Córdoba, 1955-76. Ideology, Work, and Labor Politics in an Argentine Industrial City, Cambridge: Harvard University Press, 1994.

El Cordobazo y las guerras obreras en Córdoba, 1955-76. Buenos Aires: Editorial Sudamericana, 1996 (Spanish language edition of 1994 Harvard University Press book).

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"Córdoba rebelde: El Cordobazo, el clasismo, y la movilización social, 1969-1976 (co-author Mónica B. Gordillo), Buenos Aires: Editorial de la Campana 2008.

The Politics of National Capitalism: Peronism and the Argentine Bourgeoisie, 1946-1976 (co-author Marcelo Rougier), University Park: Penn State University Press 2009.

Perón y la burguesía argentina: el proyecto de un capitalismo nacional y sus límites (co-author Marcelo Rougier), Buenos Aires: Editora Lenguaje Claro, 2013 (Spanish language edition of Penn State Press book).

Argentina's Missing Bones. Revisiting the History of the Dirty War, Berkeley: University of California Press, 2018.

Germinal's Children. Energy, Public Health and the Second Industrial Revolution in the Americas (in progress)

#### **Book Chapters and Articles**

"El *clasismo* y los obreros. El contexto fabril del *sindicalismo de liberación* en la industria automotriz cordobesa, 1970-75", *Desarrollo Económico*, vol. 32 no. 125 (April-June, 1992): pp. 3-22.

"Working Class Protest, Popular Revolt, and Urban Insurrection in Argentina: the 1969 *Cordobazo*", (co-author Mónica B. Gordillo), *Journal of Social History*, vol. 27, no. 3 (Spring, 1994), pp. 477-498.

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### **EXHIBIT C**

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

EXTRACTS FROM THE
REPORT
OF AN
AMNESTY INTERNATIONAL
MISSION
TO
ARGENTINA
6-15 November 1976

AI INDEX: AMR 13/70/79

### INTRODUCTION

The political history of Argentina in the past two decades has been one of continuous struggle between weak civilian governments and a powerful military. This was demonstrated during the period subsequent to the fall of the first Peronist government, 1955-66, when there were five different presidents, two military and three civilian. In 1966, General Juan Carlos Ongania seized power and attempted to resolve Argentina's economic problems by adopting stringent austerity measures. For the next seven years, three military presidents ruled the country. There was no permitted channel for political expression, since all parties other than the already banned Peronist movement, had been suspended by the military at the time of the 1966 coup. Clandestine political organizations proliferated, some inspired and actively encouraged by the exiled former President Juan Domingo Peron. In May 1969, growing unemployment and unpopular economic policies culminated in an uprising in Cordoba; this was violently suppressed by the military, more than 20 civilians being killed. Following this rising - the Cordobazo a State of Siege was declared, and since, from 1970 onwards, the activities of left-wing armed groups intensified, further repressive legislation was passed.

Increasing violence, labour unrest and economic instability led General Alejandro Agustín Lanusse to seek a compromise with the Peronists and move towards a restoration of democracy. Elections were held in March 1973 and Hector Campora became President in May, with 50 per cent of the vote. On taking office, he declared a general amnesty and revoked most of the penal laws which had not been duly enacted by congress. After only 49 days in office, Dr Campora resigned; he made way for Juan Domingo Peron, who, having already visited Argentina in November 1972, was elected President in September 1973 with 60 per cent of the vote. On his death, in July 1974, Peron was succeeded by his widow, María Estela Martínez de Peron.

Senora Perón, advised by a small group of confidants led by the Minister of Social Welfare, Lopez Rega (now wanted in Argentina for embezzlement), presided over a period of severe economic difficulties: in 1974 inflation was 335 per cent and in March 1976 it reached an annual rate of 700 per cent. Corruption and political violence increased as factional fighting for the political succession within Peronism spread.

On 6 November 1974, a State of Siege was introduced and more than 3,000 people suspected of involvement in subversive activities were placed in preventive detention. The death squads, some which were financed, according to sworn testimony\*, by the Ministry of Social Welfare, operated with impunity and were responsible for a large proportion of the 1,500

<sup>\*</sup> Lieutenant Paino testified in August 1975 before a congressional commission set up to investigate the activities of the Alianza Anti-Comunista Argentina (Argentine Anti-Communist Alliance - AAA).

assassinations which occurred in the 18-month period following Peron's death. On 24 March 1976, Senora Peron was deposed by the armed forces, who promised to provide economic stability and wage total war against subversion.

## Armed Organizations

The armed left-wing organizations developed during the military governments which ruled Argentina from 1966-73. The most important groups are the Montoneros and the Ejercito Revolucionario del Pueblo (People's Revolutionary Army - ERP). These have now absorbed other smaller groups.

The Montoneros, who take their name from the nineteenth century gaucho rebels, began to operate in 1969. They are Peronist-inspired and achieved national publicity after the kidnapping and killing, in 1970, of former provisional President General Pedro Eugenio Aramburu (1955-58), who had ousted Juan Peron in 1955. From 1970-73 they received the support of the Peronist Youth Movement and of Peron himself, who referred to them as "that marvellous youth that struggles against military dictatorship with weapons in their hands and who know how to give their lives for the Fatherland". (However, as President, on 1 May 1974, Peron disowned them as "stupid, smooth-chinned and mercenary youths".) During Campora's brief Presidency the Montoneros suspended their activities; but when Campora resigned and Peron, as President, denounced them, they became disenchanted with the official Peronist government, and on 6 September 1974, two months after the death of Peron, they announced their resumption of the armed struggle on the grounds that "all possibilities of legal action have been exhausted". They continued, however, to regard themselves as Peronist. In December 1975, one of the leaders, Roberto Quieto, was abducted and has disappeared. Since the military coup, despite heavy losses, the Montoneros have carried out several acts of violence.

The Ejercito Revolucionario del Pueblo emerged in 1970-1 as the armed wing of the Trotskyist Partido Revolucionario de los Trabajadores (Workers' Revolutionary Party - PRT) and was particularly active in 1971 in the Cordoba area. It became well-known for its "military" efficiency with a number of daring raids on military installations and attempted in 1974 to establish a "liberated zone" in the mountainous province of Tucuman. It has suffered heavy casualties, including, in July 1976, the death of its leader, Mario Roberto Santucho.

Since the coup the Montoneros and the ERP have claimed responsibility for the following acts of violence:

29 April 1976: Five men and three women killed in attack on army arsenal;

30 May 1976: Colonel Juan Pita, military administrator of the

General Labour Confederation kidnapped. He escaped unharmed on 7 December 1976:

19 June 1976: Chief of Police, General Cardozo killed by a bomb which had been placed under his bed by Ana María Gonzalez, a friend of his daughter's;

2 July 1976: Twenty-five policemen killed and 60 injured in Coordinación Federal (police headquarters);

General Omar Carlos Actis, head of the state committee organizing the 1978 World Cup to be held in Argentina, shot by five gummen whilst crossing the road. On the same day, Carlos Bargometti, a Fiat executive, shot in his car; the fifth Fiat executive to be killed since 1972;

2 October 1976: Bomb planted in the Campo de Mayo army barracks; General Jorge Rafael Videla, President of the Argentine Republic, missed assassination by minutes;

17 October 1976: Bomb planted in cinema of army officers' club in Buenos Aires; at least 50 injured;

9 November 1976: Bomb planted in police station in La Plata; one person killed and at least 11 injured.

Retired Air Force Major Adolfo Valis assassinated;

1 December 1976: Colonel Leandro D'Amico assassinated. The 17th senior military official to have been killed by left-wing groups since the coup;

15 December 1976: Thirteen-pound fragmentation bomb exploded in large hall at the Defence Planning Under-Secretariat; 13 people killed and 20 injured.

Right-wing extremists had, until 1970, generally confined their activities to the elimination of petty criminals, but in December of that year they began their attacks on people suspected of left-wing sympathies. However, it was during the Peronist government of 1973 onwards that parapolice groups entered the political field in earnest, kidnapping and killing on a large scale and concentrating in particular on trade unionists and left-wing activists. The most famous group is the Alianza Anti-Comunista Argentina (Argentine Anti-Communist Alliance - AAA), which began its activities in December 1973 with an attempt on the life of Radical Senator Solari Yrigoyen. He sustained serious injuries but survived. Whilst there is no conclusive evidence proving a direct connection between these organizations and the police and military, there are several circumstances which suggest official tolerance of their activities: according to Amnesty International's information, these crimes are never investigated by the authorities: no one has been tried or even arrested for them. The parapolice groups often operate in broad daylight and are never interfered with by the public authorities. They use vehicles of the same make and

type as the police and military. In 1974 alone, there was strong evidence to show that these groups were responsible for over 300 murders. During 1975 and 1976 the activities of these groups increased; in the last quarter of 1976 reliable sources indicate that they were responsible for approximately 15 abductions a day.

## LEGISLATION

The military junta is now the supreme organ of the state and has taken upon itself extraordinary powers which violate the Argentinian Constitution. The executive is no longer subject to any check or control since congress has been suspended and the members of the Supreme Court of Justice dismissed and replaced. The military now hold most key ministerial posts and all nine members of the new Legislative Advisory Committee (Comision de Asesoramiento Legal) are officers in the armed forces. Thus the military controls all branches of government: the executive, the legislature and the judiciary.

Strict and indeed repressive laws were already available to the new government when it seized power on 24 March 1976.

## Security Act 20.840

This was made law on 30 September 1974 and prescribes severe prison terms for any person who attempts or encourages by any means the alteration or suppression of the established order and the social peace of the nation. Act 20.840 makes criminal any activity related to the distribution of the literature or emblems of "subversive" organizations. Activities could count as "subversive" even when accomplished in an entirely peaceful manner. Offences relevant to Act 20.840 were placed under federal jurisdiction and all bail procedures and suspended sentences were made inapplicable.

## The State of Siege

In addition to Security Act 20.840, the military junta also maintained the decree of the executive of 6 November 1974, which declared a State of Siege.

According to the Argentinian Constitution (Article 86, clause 19), the President is empowered to declare a State of Siege in cases of "internal upheaval". However, this provision is qualified by Article 95 which states that "under no circumstances can the President of the Nation pass sentence or exercise judicial functions" and by Article 23, which states: "In the event of internal unrest or an external aggression that endangers the functioning of the Constitution and of the authorities created by it, a State of Siege will be declared in the province or territory where the threat to order prevails, constitutional guarantees being suspended in the interim. Whilst constitutional guarantees are suspended, the President of the Republic may not punish or pass sentence. His power will be restricted to arrest or moving people from one part of Argentina to another, if they do not wish to leave the country."

It is clear that since the coup in March the legal restrictions on the State of Siege, provided by Articles 23 and 95, have been overruled.

# The Suspension of the Right of Option

On 24 March 1976, the junta suspended the last clause of Article 23 (...."if they do not wish to leave the country"), which is known as the Right of Option. Then, on 29 March (with decree 21.338), they retroactively annulled this right: "All requests for the option to leave the nation presented during the enforcement of this right, regardless of the stage of development are now automatically without effect." As a result, many persons who had been granted the Right of Option before the coup were prevented from going into exile. At the time of the coup there were approximately 3,000 people held at the disposal of the Executive Power for the duration of the State of Siege (and no limit has ever been fixed for its duration, either by the government of Maria Estela Peron or by that of General Videla). Under Law 21.338 these people were left without any recourse against indefinite incarceration. However, the constitutional basis of this law has been contested in the courts.

The determination of the military junta to preclude a successful appeal against the suspension of the Right of Option is illustrated by the case of María Cristina Ercoli:

On 23 July 1976, the Argentine Federal Court instructed the Executive Power to allow María Cristina Ercoli to go into exile or otherwise to release her within a period of 20 days. The court ruled that Senorita Ercoli had been held for sufficient length of time (7 months) to permit the Executive Power to investigate her activities and formally charge her if she were found to have been involved in any criminal acts. Her detention sine die in such conditions would be unreasonable and, furthermore, would amount to a sentence in contravention of Articles 23 and 95 of the Constitution, which prohibits the President of the Republic to pass sentence or to condemn.

However, on 17 November 1976, the Supreme Court overruled the finding of the Federal Court in the case of Senorita Ercoli. Whilst they agreed that the <u>sine die</u> suspension of the Right of Option would be unconstitutional in so far as it implied detention for an indefinite period, the Supreme Court maintained that Law 21.448, promulgated on 27 October 1976 and which now permits prisoners held at the disposal of the Executive Power to apply to leave the country, altered the situation significantly.

Law 21.448 fixed a 180-day period of suspension of the Right of Option from 27 October 1976, the moment of its publication. Law 21.449 of 27 October 1976 established that persons held at the disposal of the Executive Power could only request to leave the country 90 days after the decree of their arrest had been issued. The Executive Power, however, reserved the right to grant only those requests which they considered did not endanger the peace and security of the nation. In the case of María Cristina Ercoli, the refusal of the option was supported by the following note from the Ministry of the Interior:

"His Excellency, the President of the Republic, has considered when decreeing this arrest that the activities of the person now detained could contribute to maintaining, expanding or aggravating

the causes that motivated the declaration of the State of Siege."

It is apparent that the Supreme Court, by upholding the authority of the Executive to regulate the Right of Option, has broken with one of the most fundamental tenets of the Constitution, for the Executive Power is now engaged in the exercise of judicial functions.

# Other Decrees and Laws Promulgated by the Military Junta

## Decree 21.264

This was issued on 24 March 1976 and transforms a breach of the peace from a minor offence punishable by a fine or by 30 days confinement into a major federal crime punishable by a penalty of 8 years in prison. Article 5 of the decree authorizes the security forces to use firearms when a person apprehended "in flagrante delicto .... does not cease upon the first warning or uses arms against the officer of the peace". Attacks against public transport, communications and other public services are punishable by "imprisonment for a fixed period or death".

Decree 21.264 also set up military tribunals known as Consejos de Guerra (Councils of War). In these tribunals the accused is only entitled to a "summary trial" as described in the code of military justice, which states that a summary trial may be used when the immediate suppression of a crime is "necessary to maintain the morale, discipline and the military spirit of the armed forces, and when dealing with serious offences such as treason, insurrection, mutiny, looting, attacks on superior officers, attacks on guards and assassination of sentries". This situation is now automatically considered to prevail when these courts conduct hearings concerning persons involved in anything pertaining to subversion. The defendants are not allowed to be represented by civilian lawyers. According to Article 97 of the Code of Military Justice, the defence lawyer should always be an "officer in active service or retired". Furthermore, the proceedings of these courts generally take place in camera.

# Law 21.272

This law was issued on 24 March 1976 and establishes the death penalty for anyone causing serious injuries or death to military personnel or members of the security forces and police whilst carrying out their duties. Anyone who "offends the dignity and decorum" of military personnel, or security forces and police may face a sentence of up to 10 years' imprisonment. By this law the age of criminal responsibility is reduced to 16 years and this age limit applies to the death penalty.

## Law 21.322 and Law 21.325

These were passed on 2 June 1976 and made illegal a total number of 48 organizations and provided criminal forms of punishment for political activity. These laws also established that all "political acts" that relate to a party are outside the law, regardless of whether they may issue in concrete action. The same applies to the publication of any such activities which may be punished by up to 6 years'imprisonment.

## Law 21.338

Passed on 25 June 1976, this law modified the existing Penal Code and introduced the death penalty by firing squad within 48 hours of the sentence being pronounced; it also provides a sentence of between 2 and 6 years for anyone who instigates a crime against a person or institution whether or not an act took place.

Law 21.338 also amended Article 210 bis of the Penal Code by making the penalties for "illicit association" more severe: the sentence has been increased from 3 - 8 years to 5 - 12 years. If the illicit association includes the participation of leaders or organizers, the penalty imposed can be 25 years; this penalty can also be applied if the organization has a "cell structure".

## Decree 21.456

Issued on 20 November 1976, this modified the already existing security law 20.840 by making the penalties for all offences relating to subversion more severe. This decree also introduces (under Article 5) prison terms of between 2 and 4 years for anyone who after a strike has been declared illegal by the competent authorities refuses to carry out his duties.

## Law 21.460

Promulgated on 20 November 1976, this authorizes the police or armed forces, when investigating crimes of subversion, to arrest anyone on suspicion alone whenever there are "strong indications or half-conclusive proofs of guilt". This procedure will be known as the "summary pre-trial". Naturally the presumption of innocence is prejudiced by this new law. Furthermore, under Article 9 of this law a confession obtained from a prisoner during interrogation may be used as evidence against him at his trial. The statement may only be retracted if the prisoner can prove it was obtained under duress or torture. This contravenes Article 14 of the International Covenant on Civil and Political Rights which states that no one can "be compelled to testify against himself or to confess to guilt".

## Press Censorship

# Communique 19: Delito de Prensa (Crime of the Press)

Passed on 24 March 1976, this established that "anyone who through any medium whatsoever defends, divulges or propogates announcements or views coming from or attributed to illicit organizations or persons or groups notoriously dedicated to subversive activities or to terrorism will be subject to an indefinite sentence of detention. Anyone who through any medium whatsoever defends, propogates or divulges news, communiques or views with the purpose of disrupting, prejudicing or lessening the prestige of the activities of the armed forces will be subject to detention for a period of up to 10 years".

On 22 April 1976, a more stringent form of censorship was introduced:

"The Government has forbidden the publication of all news items concerning terrorist activity, subversion, abductions or the discovery of bodies, unless officially announced. The order was given to most metropolitan newspapers on Thursday night.

"A brief statement issued in the press secretariat said that 'as from 22 April it is forbidden to report, comment or make reference to subjects related to subversive incidents, the appearance of bodies and the deaths of subversive elements and/or members of the armed or security forces, unless these are announced by a responsible official source. This includes kidnappings and disappearances.

"A press secretariat source said that the ban on publication of terrorist activities was aimed at suppressing any information which could be used as propaganda by subversive groups.

" 'This is a state of war,' the source said, 'and the government has the right to use this method to prevent enemy propaganda'.

"The government source said this decision was not to be interpreted as a step towards total censorship, but rather a security measure in a specific area."

## Buenos Aires Herald: 24 April 1976

In short, the new government, by taking upon itself the power to regulate the Right of Option of prisoners held at the disposal of the Executive Power, and by placing all trials of crimes of subversion under the jurisdiction of military courts which are themselves directly responsible to the President of the Republic, is violating the Constitution, which firmly states in Article 95 that "under no circumstances can the President of the Nation pass sentence or

exercise judicial functions".

The laws promulgated by the military junta on or after 24 March 1976 have erased or confused the basic distinction between the principal actors in a criminal offence, those who are accomplices in the act and those who are only accessories after the fact. By rejecting the basic differences in accountability of those involved in a crime - differences recognized by every system of law - the military junta have made it possible to detain anyone connected, however remotely, with any alleged crime of subversion.

The militarization of civilian tribunals means in effect that no citizen in Argentina who is arrested for alleged subversion has any rights beyond those severely qualified privileges granted under the Code of Military Justice. There can be little confidence that the military courts, which only afford political defendants summary justice and deny them the right to be defended by civilian lawyers, give any guarantee of a fair and impartial trial. They thus contravene Article 10 of the United Nations Universal Declaration of Human Rights (1948):

"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

The Argentine Republic is a signatory to and has ratified the United Nations Charter, the United Nations Universal Declaration of Human Rights and the American Convention of Human Rights.

## PRISONS AND PRISONERS

"The prisons of the Nation shall be healthy and clean, for the security and not for the punishment of the prisoners confined therein; and any measures that under pretext or precaution inflicts on them punishment beyond the demands of security, shall render liable the judge who authorizes it."

Article 18 of the Argentinian Constitution

Before the coup d'état of 24 March 1976, there were approximately 3,000 people held in preventive detention at the disposal of the Executive Power (a la disposición del Poder Ejecutivo Nacional - PEN). Since then arrests have continued on a large scale but the authorities refuse, for reasons of security, to divulge the identity or number of political prisoners. The Amnesty International delegates were told that information about prisoners detained by executive decree was a military secret; officials did reveal, however, that the total capacity of the prisons was between 4,000 and 5,000 and that not all were full. This conflicts with the testimony of released prisoners, who have all commented on overcrowding. Furthermore, prisoner statistics from official and unofficial sources indicate that in four prisons alone there are 4,610 inmates:

Villa Devoto	2,830, of whom 560 are held under PEN. (This includes common prisoners.)
Sierra Chica	600 political prisoners*
Cordoba Penitentiary	480 political prisoners*
Coronda	300 political prisoners*

A further clue as to the number of political prisoners was provided on 18 November 1976 by the Minister of the Interior, General Albano Harguindeguy, who dismissed an estimate of 20,000 as exaggerated and instructed journalists that the actual figure could be arrived at simply by dividing this estimate by any number between two and 10. The authorities, then, admit the existence of between 2,000 and 10,000 political prisoners, but clearly such admissions are not designed to convey precise information.

The authorities have been less reticent about the number of releases and have made certain information available to Amnesty International.

<sup>\*</sup> These figures are unofficial.

Between 24 March and 30 October 1976, 882 people were freed and 96 (detained) foreigners were expelled. From 1 November to 22 December 1976, the Argentine government freed 541 persons held in preventive detention and expelled another 18 foreigners. Another 123 people were reported to have been released between 22 and 29 December 1976. Thus to date there statistics are of little value, for they cast no light on the length of detention, nor on the present number of people in detention for political reasons.

Amnesty International believes that at the time of writing, January 1977, there are between 5,000-6,000 political prisoners, at least two-thirds of whom have not been charged but are detained indefinitely, at the disposal of the Executive Power.

Since December 1975, all prisons have been under military jurisdiction; political prisoners are all categorized under decree 2023 (issued in December 1974 and made more severe in May 1976) as extremely dangerous and are subject to a harsh régime which a) restricts visits and correspondence to blood relatives (this does not include common-law spouses or partners of a second marriage, as divorce is not recognized in Argentina); b) imposes strict censorship of mail and reading matter; c) authorizes spot checks and whole body searches which may be carried out at random, even at meal times; d) permits severe penalties for the smallest infraction of prison regulations. Most prisons do not allow contact visits for political prisoners (La Plata is an exception). Instead, visits take place in locutorios, specially constructed rooms with a plate glass panel separating the prisoner from his family; conversations are conducted through a microphone\*\*. Political prisoners in Cordoba, Coronda (Santa Fe) and Resistencia (Chaco Province) have been denied all contact with the outside world for over six months. Moreover, prisoners held at the disposal of the Executive Power are no longer, since the coup, entitled to see their lawyers; the reason given is that, until they are charged, they do not need legal assistance. In fact, the majority of political prisoners have not been formally charged. A significant number have been held in detention since November 1974, when the State of Siege was declared.

It is clear that the provisions of decree 2023 conflict with those of the State of Siege (Article 23 of the Argentinian Constitution). Whereas the State of Siege permits the Executive only to detain but not to punish, the regime imposed by decree 2023 is essentially punitive. What is more, this regime goes against the recommendations embodied in the United Nations Standard Minimum Rules for the Treatment of Prisoners, viz Rule 84(2) .... "Unconvicted prisoners are presumed to be innocent and shall be treated as such" and Rule 84(3) .... "Without prejudice to legal rules for the protection of individual liberty or prescribing the procedure to be observed in respect of untried prisoners, these prisoners shall benefit by a special regime ...."

Whilst, undoubtedly, conditions vary in severity from prison to prison (although the regulations are supposed to be uniformly applied), it is apparent that untried political prisoners are in most cases treated more severely than convicted common prisoners.

The chief official centres of detention for political prisoners are:

Villa Devoto (now a women's prison)	Province	of	Buenos Aires
La Plata (men)	Province of	of	Buenos Aires
Olmos	Province of	of	Buenos Aires
Sierra Chica (men)	Province	of	Buenos Aires
Cordoba Penitentiary	Province of	of	Cordoba
Carcel de Encausados	Province	of	Cordoba
Buen Pastor	Province	of	Cordoba
Coronda	Province of	of	Santa Fe
Rawson	Province	of	Chubut
Resistencia	Province of	of	Chaco

During the mission to Argentina, Amnesty International requested private interviews with 26 prisoners. This request was not granted; the delegation was, however, allowed to visit one prison, Villa Devoto in the capital. Permission to visit the prison of La Plata was withdrawn, for reasons of security, following a bomb explosion on 9 November 1976 in the local police station.

Lord Avebury of the Amnesty International delegation went to Villa Devoto. Although his general impression was that conditions in the prison were not unexpectedly severe, he was shocked when interviewing a number of female prisoners, in the presence of prison officials, by the many allegations of torture and maltreatment made in statements which included circumstantial detail. These statements were in all cases contradicted by a government official in a subsequent meeting. There is evidence that since the Amnesty International mission some of the women who spoke to

<sup>\*</sup> Considerable doubt exists about some of these releases as in most cases the authorities have described the persons on the lists as "ceasing to be detained at the disposal of the Executive Power". This could mean that the person has not been freed but charged. In this case he would of course remain in prison. The case of Patricia Miriam Borenztein is an example of this confusion. Her name appeared on a list of people released between 1 November and 22 December 1976, and then on a list of 31 people placed at the disposal of the Executive Power between 14 and 21 January 1977. This could mean that either she was charged at the end of 1976 (but this is hardly likely as she is now once more in preventive detention) or she was released and within weeks the Executive Power decided for reasons of security to detain her again, or, as has been suggested by the Argentinian press, she was never in fact released.

<sup>\*\*</sup>The reason given for these precautions is that the visitors of political prisoners might supply them with dangerous materials.

Lord Avebury have been sent to punishment cells.

Detailed information about prison conditions is obtained from the statements of former prisoners and from documents written by detainees. These accounts provide comprehensive evidence on general conditions, on visits and contact with the outside world, on the treatment of prisoners during transfer, and on torture, harassment and executions.

Sergio Muñoz Martinez, a Chilean political scientist, was arrested in Buenos Aires in November 1975 and was held at the disposal of the Executive Power for 1 year until his expulsion from Argentina. His account, which appears to be representative, reflects the situation of routine brutality and constant intimidation of the prisoners by the guards.

"On 27 September, we were transferred from Villa Devoto to the prison of La Plata. This is a new maximum security prison which has more than 1,000 individual cells of 1.70 metres wide by 2 metres long. (It is reported that some of these small cells are now made to hold two prisoners.) All the surface area is covered by a wooden bench for sleeping, a small table for eating, a chair, a washbasin, a WC, all of concrete and fixed to the wall. The only free space is that between the door and the chair. There is a 40-watt bulb installed outside which gives a weak light through a thick glass window. Natural light comes through a pane of glass so thick that one cannot see the courtyard through it. When a prisoner arrives he is taken and beaten and dragged by the hair through the various checks: identity, medical, etc.; then locked in a cell from 7 to 10 days. During this period, all our belongings like watches and shoes were stolen and we were beaten for the slightest reason.

"The most common tortures during the months of October and November were:

- to remain crouched for 1 hour with head and one hand pushed through the small window in the door through which food is passed. During this time, the officers would amuse themselves by beating us over the heads with their keyrings which carried more than 150 keys;
- to be stretched out on the bed and be pummelled with fists;
- to be interrupted whilst bathing just as one had soaped one's body and be dragged back to the cell;
- to be threatened with razor blade cuts; - to be awakened three or four times a night.

"One new officer, Rivarola, indulged particularly in these practices. All of this was in addition to the regime which in

itself constitutes torture.

"During all the time spent in the cell, (i.e. from 6.00 am to 9.00 pm excluding four hours recreation) the prisoner is not allowed to lie down or sit on the bunk where the bed is made or he will be punished. As a result, prisoners suffer from bad pains in the muscles and spine. Lock-up period is prolonged as a punishment, often for absurd reasons such as not being properly dressed (i.e. with one button unfastened)."

La Plata has in the past been regarded as one of the best prisons in the country.

Article 37 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states:

"Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals both by correspondence and by receiving visits."

However, prolonged periods of total isolation from the outside world have occurred in three prisons: Cordoba Penitentiary, the Coronda in Santa Fe and the Resistencia prison.

Prisoners of Coronda testified that:

"From 5 May 1976, we were forbidden visits from our relatives, which means in effect total isolation, as we can no longer write or receive letters, which leaves us in a state of perpetual anxiety as we hear rumours of acts of violence against our families. The next thing was that all books, magazines and all materials for reading or studying were removed. This was soon followed by the removal of the heater, radio, cigarettes, tea, powdered milk, sugar, jam, salt, oil, medicines, et cetera. At the same time the prison authorities took away or smashed crucifixes, family photographs, toys prisoners had made for their children, chess pieces, writing paper, biros, personal letters. All this was accompanied by continual threats and provocations.

'We have not been given any explanation why we are incommunicado. Furthermore, we now spend 23 hours a day locked in our cells (24 if it is raining) with no possibility of manual work or intellectual exercise."

## Transfers

Article 45(2) of the United Nations Standard Minimum Rules for the Treatment of Prisoners forbids "the transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship".

Numerous, well-substantiated accounts of maltreatment of prisoners during transfers have been documented by Amnesty International. Prisoners are moved under a heavily armed escort; they are handcuffed two together; when travelling by road, they are usually locked into special cell-like compartments. All of these precautions make it unlikely that escape could be possible. A female prisoner described a transfer from Olmos prison to Villa Devoto in late October 1976, during which prisoners were struck repeated blows with truncheons and forced to stand throughout a journey which lasted two hours (they were transported in meat vans). That day they were not given anything to eat from the time they got up at 6.00 am until their arrival at Villa Devoto at 6.00 pm. One woman with a new-born baby was unable to feed it during the journey because she was permanently handcuffed.

Some transfers have been conducted with such violence that prisoners have sustained serious injury: bruising of the body, broken bones and teeth; often they have been forced by threats to sign statements that the wounds were self-inflicted. One such transfer was described by Senor Augusto Nogueira, a 26-year-old farm labourer:

"On 6 September 1976 I was transferred from the prison of Villa Devoto with another 50 prisoners held at the disposal of the Executive Power (that is, without charges) to the prison of Sierra Chica. The transfer was conducted in the following way: in Villa Devoto we were handcuffed together so two prisoners had one hand éach in handcuffs and one free. We were put into lorries of the Federal Penal Department and taken to the military air base of Palomar. There, as we got out of the lorries and until we boarded the Hercules plane, we were pushed and beaten by the soldiers with whips and the butts of guns. I was beaten especially on the shoulders. Once on board the plane we had to sit with our heads down and our free hand on our necks. We made the whole journey approximately 45 minutes - in this position, and throughout it we were constantly beaten over the head and back and the guards even walked with their boots on our backs. I was also interrogated by personnel of the Penitentiary Department and army about the reason for my arrest. Every time I replied they beat me. Once we arrived at the Azul airport we got off the plane and were showered with blows and there I had to lie face down on the ground until the lorry which was to take us to Sierra Chica arrived. We ran towards the lorry in the midst of further blows. At Sierra Chica, we were beaten again with truncheons and gun butts by the prison and army personnel. One example of the brutality and savagery of the beating is that while one of the guards was beating one of my comrades

with his gun, it accidentally went off and killed another guard beside him.

"Once inside the prison, we were beaten even in the entrance hall whilst we were getting undressed and weighed. We were beaten even when a prison official was taking down our personal details and a nurse examining us. We were no longer handcuffed and whilst I tried to gather up my clothes a guard took hold of me and as I tried to protect myself I dropped all my clothes. He took me at top speed completely naked, without even any shoes, from the hall to the pavilion 150 metres away across a patio covered by small stones; here the pain of the previous blows and having to run on the stones without shoes made my progress slow; nevertheless I was pushed. At the pavilion entrance there were about 10 prison employees who began to beat me all the way to my cell where I spent several hours completely naked without even a blanket until the guards arrived to question me about why I was detained, punching and beating me. Then I was taken out of the cell to the bottom of the pavilion, being beaten by various officials. There I had to look for my clothes amid further blows among a pile of belongings. They forced me to bathe in cold water, then they beat me all the way back to my cell. This is all I went through during the transfer as a result of which I lost two teeth and still have pains in different parts of my body two months later. In spite of the doctors having been informed of all this, I have never received medical attention. I should add that when I was in my cell they threw me onto the floor and started to kick me with their boots all over my body. Once I was kicked in the mouth and two teeth were broken. I had no breath or strength; I was lifted up only to be thrown onto the floor and beaten again."

(Amnesty International has received many other testimonies which corroborate the brutality of this transfer.)

There is no doubt that the treatment described in the preceding testimonies goes beyond the limits of what is acceptable to any civilized society and clearly violates Article 31 of the United Nations Standard Minimum Rules for the Treatment of Prisoners:

"Corporal punishment, punishing by placing in a dark cell, and all cruel, inhuman or degrading punishment shall be completely prohibited as punishments for disciplinary offences."

Alarming reports of brutality, however, come from the Penitentiary in Cordoba, where the political prisoners have been kept incommunicado since the coup. All personal belongings, reading and working materials have been taken away from them and the prisoners allege that they are kept in a constant state of tension, are subjected to interrogations each night and are forced to participate in long sessions of arduous

military exercises known as "dances", which are generally accompanied by beatings and abuse. A joint testimony by the political prisoners in Cordoba Penitentiary recounts:

"In the last weeks of April, the situation deteriorated. We were then taken out, cell by cell, at all hours of the day and night, by a colonel and three subordinates with rifles and fixed bayonets, pistols and truncheons, who vented their loathing on us. Naked, flat on our backs in the corridors, prohibited from looking at one another, we were questioned about our activities outside: trade unions, political parties, et cetera. We were beaten with rubber sticks with steel centres. They would pick out one of us at random for a prolonged beating. These night-time disturbances created an an apprehensive and nervous silence amongst us. We never knew which of us would be beaten that night ..... The results of these last two weeks in April were: 80 percent of the prisoners were beaten, with bruises on some part of the body, cuts, badly bruised backs. The worst were: prisoner Wind given a bayonet wound in the kidney as a result of which he lost one organ; prisoner Balus with partial paralysis as a result of the beatings moved twice to hospital in a coma; prisoner Barrero with haematomas on the genitals; prisoner Rudnik, convalescing on crutches after being beaten was readmitted to the prison hospital. The most badly beaten was Carlos Sgandurra: this fellow prisoner was singled out at random by a corporal who may have found his physical presence objectionable, and taken out in underpants in the middle of a cold night. They beat him brutally on the back, head and shoulders, inflicting severe lacerations. When he returned to the cell, his body was a mass of sores, his forehead swollen by the blows; but his torturers were not satisfied with this. Another three times at different hours of the day and night, like bloodthirsty vultures, they set about him. On one occasion his tormenters amused themselves by running the flat or point of their blades on his wounds."

# Summary Executions

Summary executions of political prisoners have occurred in the Penitentiary in Cordoba on various occasions, justified under the Ley de Fuga or Law of Escape. The following account is a resume of several testimonies written by the political prisoners themselves and passed out of the prison between July and October 1976.

"On 17 May (1976) the following were removed from the jail without any explanation: Miguel Angel Mosse, Ricardo Alberto Otto Young, Alberto Svaguzza, Eduardo Alberto Hernandez, Luís Ricardo Veron and Diana Fidelman. Minutes later they were killed; the army alleged they were shot whilst trying to escape.

"On 28 May, José A. Pucheta and Carlos Sgandurra were taken

out of their cells and killed (allegedly killed during a rescue attempt)."

"On 19 June at 23.15 hours while we were all sleeping Mirta Abdon de Maggi and Esther Barneris were taken away, gagged, handcuffed and blindfolded. The same night, they took Miguel Barreras and Claudio Zorrilla. All were subsequently shot with other detainees who were not from the prison (once again the official version was shot during an escape attempt)."

"On 29 June, at about 20.00 hours they took away Marta Rosetti de Arqueoloa, who had been repeatedly threatened with death; she had one night's reprieve as they did not have a vehicle in which to move her."

"On 30 June at 11.00 hours she was taken away by a lieutenant and a sergeant with Christian Funes; they were both shot in a lorry at the prison gates, allegedly whilst trying to escape."

"On 5 July, during one of the infamous "dances" while doing press-ups, prisoner Raul Augusto Bauducco unintentionally touched the officer in charge, who shot him dead. (The official statement was that the prisoner had tried to snatch the officer's gun.)"

"On 14 July, Rene Moukarzel, a prisoner aged about 28, blindfolded, handcuffed and covered with blood - indicating recent torture - was taken into the courtyard. We were all locked in our cells and the windows were shut. He was tortured for hours, during which time they constantly threw cold water over his head, keeping him blindfolded and gagged until he died, frozen in the same place that night."

"August: prisoner Liliana Felisa Paez was taken away and, as in previous cases, was shot together with prisoner Tramontini."

"On 12 August, Hugo Vaca Narvaja, Gustavo Adolfo de Breuil and Higinio Arnaldo Toranzo were killed." (A communique from the 3rd Army Corps - which controls Cordoba - explained that while the prisoners were being transported from the Penitentiary to a military court, the van had an accident. The three subversives tried to escape by hiding in some bushes; the escort was obliged to open fire, killing the three men. As it is almost certain that the men were handcuffed and unarmed, it is difficult to understand why it was necessary to shoot them.)



The deaths of four more political prisoners occurred in the Penitentiary in Cordoba in mid-October 1976. Death notices were published in the local newspaper Voz del Interior (15 October and 18 October 1976) for Miguel Angel Cevallos, Jorge Oscar García, Pablo Alberto Ballustra and Marta Juana Gonzalez de Baronetto.

While it is not possible to corroborate all the events described in these statements, it has been confirmed by official sources that between 17 May and 12 August 1976, 17 prisoners from the Penitentiary were executed and in all cases the authorities used the Ley de Fuga (Law of Escape) to explain their deaths. The fact that so many prisoners appear to have died in such dubious circumstances must inevitably give rise to the greatest anxiety about the safety of the political prisoners were conducted into these deaths, preferably by an international organization, and the state of incommunicado were to be immediately lifted\*. For it seems clear that safeguards for the well-being of prisoners can only be guaranteed when lawyers, friends and relatives are given access to the prisons.

## DISAPPEARANCES

Amnesty International has received varying estimates - from priests, journalists, lawyers and political groups - of the number of people in Argentina who, over the last two and a half years, have disappeared or have been abducted. The estimates range from 3,000 to 30,000, but the figure most frequently quoted is about 15,000. The usual course of events, it appears, is for someone to be dragged from his home at night by men who identify themselves as agents of the police or of the armed forces; when relatives proceed to make inquiries, by asking at the local police stations or barracks, and perhaps eventually filing writs of habeas corpus, they receive no information or help. The missing person has "disappeared" - has joined that ghostly army which, since the coup, has allegedly absorbed between 2,000 and 5,000 people. It is difficult, for obvious reasons, to obtain precise statistics: many families fear reprisals, either against themselves or against the abducted person, if they publicize the disappearance; and lawyers are systematically discouraged from filing writs of habeas corpus. Nevertheless, despite such fears, the problem has become manifestly severe: in the last week of May 1976 a total of 200 writs of habeas corpus were filed in the central federal courts of Buenos Aires alone, and between late May and the beginning of August 1976, the government was receiving unofficially 10 complaints a day. In August, at the Ministry of the Interior, a register was opened in which the names of missing persons could be entered by their relatives; the daily limit for the receipt of such complaints was set by the government at 40. If in fact this maximum figure remained constant, the number of complaints recorded by November 1976 could well have been nearly 2,000.

However, at a meeting with representatives of the Ministry of Justice and the Ministry of the Interior, the Amnesty International delegates were informed that the government had received, and were investigating, only 150 complaints. They were told that so-called disappeared people fell into three categories: those who choose to go "underground"; those who emigrate; and those who are killed in clashes with the security forces.

This explanation is not altogether consistent with the evidence available to Amnesty International. While it is possible that some of the missing persons may have gone into hiding or may have been killed in clashes with the security forces, this is not true of the majority of cases where the abduction has normally been witnessed by friends or relatives. Nor was the single example of emigration offered by these government officials an entirely convincing one. The officials cited the case of a Chilean, Mario Muñoz Salas, who, though widely talked of as a "disappeared person", later re-appeared in Austria. According to Amnesty International's records, this man, a trade-union leader, was forced, after receiving threats to his life, to go into hiding in June 1976 (during a period in which many Latin American exiles who had taken refuge in Argentina were abducted or even killed). He

<sup>\*</sup> Since January 1977, the political prisoners in the Cordoba Penitentiary have been able to receive visits.

fled to Austria in September 1976.

During the mission, the Amnesty International delegates received personal testimony from the relatives of more than 100 missing persons. Together with documentation submitted to Amnesty International's offices, these testimonies supply a good deal of information about the general circumstances surrounding abductions, about the number and the location of unofficial detention centres, and about the true fate of at least some of the people allegedly killed in armed conflict with the security forces.

The account of Rosa Daneman de Edelberg, relating the abduction of five members of her family, illustrates the manner in which such kidnappings usually occur:

"....because of my advanced age, 72 years, I usually have with me my grandchildren, who each take it in turns to sleep with me for a week or two. At 1.00 o' clock in the morning of 15 July (1976), plainclothed persons came to my house, bringing my son-in-law, Hugo Tarnopolsky, who knocked on the door and asked us to open it saying, 'Open up, Nona, it's Hugo'. When I opened it, I met my son-in-law and the plainclothes men who said they were the police and, with threats and blows, they asked for my grand-daughter, Bettina Tarnopolsky, who, for the reasons given before, had been sharing my house for a few days. After they had violently locked me out on the patio, I heard them taking away my grand-daughter, half-dressed, since most of her clothes were in her room. I also found, when I tried to contact my daughter Blance Edelberg de Tarnopolsky that these people who claimed to be policemen had ripped out the telephone, leaving me incommunicado. It took me some hours to recover from the physical and psychological violence of my unexpected visitors; then I went down to the street and rang my relatives from a public telephone, as it was impossible to contact my daughter. Together with one of my sons, I went to the home of my grand-daughter Bettina's parents, at Fena 2600, Dept A, Capital Federal, and found the front door completely destroyed and the place empty.

"We asked the neighbours and the caretaker for information and found out that, some hours before the events at my house recounted above, plainclothes men, claiming to be police, asked the caretaker for the Tarnopolsky family and he showed them the apartment they lived in. When these policemen received no immediate response to their shouts from my grand-daughter's parents, the apartment door was blown open, so that they could enter straight away, to detain and take away my daughter and son-in-law. It has to be remembered that this took place before the events at my home.

"I would also point out that my grandson Sergic Tarnopolsky - who was finishing compulsory military service at La Escuela de Mecánica de la Armada (Navy School of Mechanics) - has not returned

home again, and is described as 'disappeared' by the naval authorities. I have ascertained that, on 14 July, Sergio rang his family saying that he was 'confined to barracks'.

"I later discovered that Sergio's wife Laura had been abducted and/or detained by armed persons who raided her home.

"Objective account of the facts so far: the disappearance of the whole Tarnopolsky family, Hugo and Blanca and their children Sergio and Bettina, and daughter-in-law Laura; the confiscation, robbery - or whatever it might be called - of valuables, including Hugo's car."

Frequently, relatives of suspected "subversives" or left-wing activists have also been kidnapped.

On 24 August 1976, the children and daughter-in-law of the well-known radical Juan Gelman, spokesman for the Peronist Partido Autentico, were all abducted. The abductions are believed to have been in reprisal for Gelman's work abroad denouncing the military regime. Nora Eva Gelman (aged 19), Marcelo Ariel Gelman (aged 20) and his pregnant wife Claudia were all abducted from their homes in Buenos Aires by men claiming to be the Federal Police, who initially had been looking for Juan Gelman. None of the young people had been engaged in political activity since their schooldays, when they had belonged to the secondary school students' union. Nora Eva, who was in poor health following a serious road accident, was released after 10 days; the other two are still missing.

Until recently, under Argentine law, there were only three circumstances in which an arrest could be made: if the criminal were apprehended in flagrante delicto; if a warrant had been issued by a judge; if (in the case of PEN prisoners) the executive had passed a decree.

It has become apparent that after the coup these legal stipulations were widely disregarded. There is evidence that a large number of abductions were in fact illicit arrests made by official law-enforcing bodies. In Cordoba, for instance, some prisoners were detained "at the disposal of Area 311": that is to say, quite illegally on the order of the local commander.

Numerous arrests, then, failed to conform even to the very broad provisions permitted under the State of Siege; the most minimal legal guarantees were totally ignored. Inevitably, the prisoner, bereft of his constitutional rights, found his physical integrity at risk, as for instance in the cases described below of Father Patrick Rice and Dr Oscar Carlos Gatto.

These irregularities were not generally regarded as part of government policy, but as excesses committed by over-zealous sectors of the police and

the armed forces. However, in November, the government, instead of curbing this behaviour, sancioned it. Law 21.460 issued on 19 November 1976 authorizes the police or armed forces, when investigating subversive crimes, to arrest anyone on suspicion alone, providing there are "strong indications or half-conclusive proofs of guilt". This procedure will be known as "summary pre-trial" and by this "simple and rapid investigation" the necessary evidence can quickly be gathered so that the competent court at a subsequent trial will be able to pronounce upon the guilt or innocence of the accused.

It appears that the effect of Law 21.460 is to transfer to the police and military what is rightly a function of the judiciary; for anyone arrested under this provision has already been half convicted.

One of the most conclusive testimonies concerning unofficial detention - and revealing the involvement of the police and army in abductions and subsequent torture - is that provided by Father Patrick Rice, an Irish worker priest:

"On Monday, 11 October 1976 I was walking at about 8.30 pm in a dark part of Villa Soldati with a young Argentinian girl, Fatima Cabrera, who had come to me for help and advice. An old van drew up, a man got out and shouted to us 'Stop or I'll shoot!' We didn't know what to do. He fired a shot in the ground. He pointed his gun at us and asked for our documents. He seemed very nervous. He fired another shot in the air. Another man came round the corner, also carrying a gun. They bundled the two of us into the back of the van. At no time did they identify themselves. We did not know who they were or where they were taking us.

"They took us to Police Station 36. I was taken into a room and my shirt was pulled up over my head and face. They asked my name and where I lived. I identified myself as a priest. I was then beaten up. They told me: 'Now you'll find out that the Romans were very civilized towards the early Christians compared with what's going to happen to you.' During this beating I was not asked any questions.

"Later that night I was put in the boot of a car, my hands were tied behind my back and my head was hooded. Fatima was put in the back seat. We were taken to what I thought was a barracks\*. The hood made of rags was removed and replaced by a yellow canvas hood with string round the neck. The man changing the hood said to me: 'Don't look at me! If you look

at me you're a gonner.' I was beaten again. By this time I was in a bad state. I had lived in Argentina for six years and knew about the tortures and what to expect.

"I was then submitted to water torture. My nose was held and water was poured in my mouth. You swallow a lot of water and it has a drowning effect. My interrogators told me that they belonged to the AAA (Argentine Anti-Communist Alliance). The beatings and drenching with water continued throughout Tuesday 12 October at three or four hour intervals.

"On Tuesday night they came and walked me to another room. I knew that electric shock treatment was coming. Electric shocks were applied systematically to various parts of my body. They were also giving electric shock treatment to Fatima in the same room. All day Wednesday 13 October they tortured Fatima - I could hear her screaming.

"I was told by one of my interrogators: 'I am also against violence and for that reason I won't kill you.' I was then told that I was accused of putting up propaganda slogans against the army in Villa Soldati. I denied it.

"On Thursday 14 October, I was brought to the person in charge and told: 'You have been in detention for 8 hours.' I was again bundled into the boot of a car and taken to the Coordinación Federal (Police headquarters also known as Superintendencia de Seguridad Federal), 1550 Moreno Street, Buenos Aires. There I was kept in a small cell. The following day Fatima was brought in and put in a cell near me. Occasionally we could talk with the other prisoners or sing.

"I was told to say about my black eye and other signs of torture: 'You fell downstairs. If you say anything else, you'll be found in the river.' A doctor gave me injections, bandages, et cetera. A week after my arrest I was washed, shaved and brought before the Irish Ambassador. I was quite disorientated and the Ambassador realized that it wasn't in my interests to talk about ill-treatment. Later I signed a document which apparently cleared me of the charges. I thought therefore that I would be released in a few days, but I was transferred to Villa Devoto and then to La Plata prison where I was held for 4 or 5 weeks until my deportation. I was not tortured any more."

The apparent complicity of the public authorities in abductions is supported by the fact that even on the occasions when police have been called to the scene of a kidnapping they have failed to intervene on the victim's behalf:

<sup>\*</sup> Father Rice's description of the barracks, which he believed was located just off the Ricchieri Autoroute and the Camino de Cintura, may indicate that he was detained in the Brigada Güemes.

"In the early morning of 29 April 1976, Dr Gatto and his wife were taken from their flat in Buenos Aires by men who identified themselves as members of the Comando de Fuerzas Conjuntas del Ejercito, Marina y Aeronautica (the Combined Forces of the Army, Navy and Air Force). According to neighbours, five 'officials' burst into the flat; they beat Dr Gatto and threatened to strangle his wife unless he confessed to subversive or extremist ideas. When Dr Gatto and his wife refused to admit to having any connection with, or any knowledge of being implicated in anything subversive, political or extremist, the 'officials' only beat them more and took both of them away in official cars with sirens.

"One of the neighbours who was an eyewitness to the 'arrest' called the Federal Police when he heard the noise, because he thought there had been a burglary. Uniformed police arrived on the spot before the abductors' had taken the couple away. When the abductors were leaving, the police questioned them, but when they showed their identity papers, the police let them take the couple away. The neighbours also stated that the abductors removed all the belongings of the Gatto couple\*."

The evidence that some missing persons are in fact being deprived of their liberty by law-enforcing bodies is overwhelming. The following is a list of some of the most frequently cited unofficial detention centres. There are many difficulties in obtaining first-hand information about these places, not least because the prisoners are often kept blindfolded or hooded throughout their detention so that they should not recognize their captors or fellow captives. Other reasons are that those who are fortunate enough to be released are too afraid to make any public statements and that outside bodies find it almost impossible to check the location of the detention centres, since many of them are in restricted areas like the Campo de la Atomica near Ezeiza airport.

## In Buenos Aires

La Escuela de Mecánica de la Armada (Navy Mechanics School)
Campo de Mayo (army garrison)
Campo de la Atómica or Ezeiza (near the Atomic Energy Commission)
Brigada Glemes
Superintendencia de Seguridad Federal (also known as Coordinación
Federal - Central Police Headquarters)
Repartición 1 y 59 La Plata
Regimento No 1 de Infantería Patricios
Brigada de Investigaciones de Banfield

## In Cordoba

Campo de la Rivera Campo de la Perla Pampa de Olaem

## In Tucuman

Famailla
Fronterita
Santa Lucía
Las Mesadas
Escuela de Policía
Departamento de Educación Física

# Political Killings and Deaths

According to official statistics, the number of people who have died in political violence in 1976 is 1,354; this figure includes:

- 391 guerrillas;
- 167 police or military;
- 151 unknown;
- 33 businessmen;
- 28 trade-unionists;
- 15 students or university teachers;
- 12 former politicians;
- 9 priests.

Considerable doubt has been voiced by lawyers, members of the church and journalists about the truth of official reports concerning some of these deaths. Moreover, these reports are extremely terse communiques recording the shooting of "subversives" and rarely specifying even the identities of the victims. Since the coup, in the case of such incidents, the press may publish only these reports.

There are several instances of people known to have been abducted or even officially detained who, months later, are reported by the authorities as having been killed in a clash with security forces. These instances include the following cases:

(1) On 8 July 1976, military sources announced the death in combat of Liliana Malamud and Abigail Attademo. Habeas corpus writs had been filed for both girls after their arrest following a raid on a house in the Caseros district of Buenos Aires on 3 July by men who identified themselves as the Federal Police.

<sup>\*</sup> Testimony of fellow prisoner subsequently released.

(2) Ana Lia Delfina Magliaro was taken from her home in La Plata on 19 May 1976 during an anti-subversive operation in her neighbourhood. For 50 days her family was unable to obtain any information about her whereabouts, despite numerous inquiries at the Ministry of the Interior and the army and police headquarters. On 2 August 1976 they learnt by an anonymous telephone call that Senorita Magliaro was detained in a federal police station (Comisaria 34) in Buenos Aires. The family was able, on two occasions, to take her food and clothing, but on the third day, 4 August 1976, they were abruptly told that she had been transferred by the military police of the 1st Army Corps to the city of Mar del Plata.

On 20 September 1976, the family filed a writ of habeas corpus. Two days later they were notified by the local police that Senorita Magliaro had been "killed in combat" in Mar del Plata. A photograph was produced showing the dead girl, gun in hand, in an unspecified location; according to her death certificate she had been killed on 2 September 1976. The authorities in Mar del Plata made no reference to the fact that she had been detained.

On 9 October 1976, Senorita Magliaro's mother was given an official response to the habeas corpus: "This person was received into custody at the 34th Federal Police Station on 9 July 1976 at 12.00 after being detained by the army. She was transferred by the military police of 1st Army Corps to Mar del Plata on 4 August 1976."

At no time was the girl's family given official notification of a release, nor any explanation regarding her place of detention prior to 9 July 1976. Her sudden and violent death, in a town more than 400 kilometres from her home, when she was known to be in the custody of the army, makes the official account of her death improbable in the extreme.

Although the death penalty has been re-introduced (it became law on 25 June 1976 - Ley 21.338), it has not as yet been officially implemented. The deaths of the girls mentioned above and those that occurred in the Cordoba Penitentiary (see section Prisons and Prisoners) suggest, however, that unofficial executions are commonly practised by the police and army, and that usually these are justified on the pretext of counter-subversion.

Although right-wing terrorism has clearly been responsible for many brutal assassinations, the government has taken no action to curb it and apparently regards it as pardonable. In August 1976, the Minister of Foreign Affairs Admiral Cesar Guzzetti, after speaking at the United Nations in New York, made the following statement:

"My idea of subversion is that of the left-wing terrorist organizations. Subversion or terrorism of the right is not the same thing. When the social body of the country has been contaminated by a disease that corrodes its entrails, it forms antibodies. These antibodies cannot be considered in the same way as the microbes. As the government controls and destroys the guerrilla, the action of the antibody will disappear, as is already happening. It is only a natural reaction to a sick body."

Reprisals on a large scale have followed guerrilla outrages. There are clear signs that many of the victims were in fact unofficial prisoners who had been held as hostages.

After the murder on 19 August 1976 of General Omar Actis, the head of the state committee organizing the 1978 World Football Cup, 30 bullet-ridden and dynamited bodies were found near the town of Pilar outside Buenos Aires. The police did not allow relatives of missing persons to see the bodies, but eyewitnesses claimed that the corpses seemed to be those of people who had been detained for some time: they were not wearing ties, belts or shoelaces (all items of clothing which are routinely removed by police on arrest). It is believed that the Pilar victims had been held in the Coordinación Federal in Buenos Aires.

In some cases mass executions occur without any prior guerrilla provocation. On 6 October 1976, after many writs of habeas corpus and inquiries from relatives of missing persons, 34 bodies were exhumed from the cemetery in Moreno, a town to the south of Buenos Aires. Some of the bodies had had their hands tied behind their backs; others had been burned. It transpired that these people had probably been killed on 14 April 1976, the date of a large anti-subversion operation in a suburb of Buenos Aires; many of the bodies were identified as those of persons abducted on this date. For example, one of the corpses was that of a 22-year-old girl, Julia Rosa Dublowski, who had been arrested on 14 April 1976 at her home in Las Piedras de Remedios de Escalada by plainclothes men who identified themselves as agents of the Federal Police and who told her parents that the girl was being taken to the Barracks of the 1st Regiment in Palermo.

It has emerged that on 15 April 1976 the bodies of the victims were identified by the local police in Moreno; the police did not, however, notify any of the relatives.

It is apparent, in short, that in Argentina a large number of people who disappear are unofficially executed. This conclusion can be demonstrated by particular cases; it is also supported by the fact that regularly, in various places throughout the country, unidentified bodies are found - floating in rivers, at the bottom of lakes, decomposing on rubbish dumps or blown to pieces in quarries.

### TORTURE

Evidence about the widespread use of torture was received by Amnesty International throughout 1976 and during the mission itself. The personal testimonies concerning maltreatment of prisoners have in some cases been corroborated by subsequent medical examination (e.g. in the case of Maximo Pedro Victoria, a nuclear physicist detained in April 1976; his case is dealt with later in this section), but more often by what has been observed by relatives of the victims. The testimonies are varied and numerous; they have been made by people from all sectors of society: refugees, academics, journalists, lawyers, priests, trade unionists, students. Amnesty International believes that in view of their great number, their circumstantial detail and the range and variety of their sources, these testimonies provide overwhelming proof of the use of torture as an instrument of policy.

Torture is not new in Argentina. In March 1975, the International Commission of Jurists' Report, The Situation of Defence Lawyers in Argentina, affirmed that "cases of proven torture of political prisoners are common" and went on to quote a statement made by the former President Arturo Frondizi (La Razon 11 March 1975):

"It will not have escaped anyone's notice that torture is almost becoming an institution in our country. If on the one hand the terrible degradation of torture is not fought against, no attempt can be made at extirpating that other terrible degradation consisting of the death of innocent people in guerrilla warfare."

In talks with representatives of the Ministries of Justice, the Interior and Foreign Affairs, the Amnesty International delegates referred to the allegations of torture made by some of the female prisoners in Villa Devoto. The Chef de Cabinet of the Ministry of the Interior, Senor Flouret, firmly stated that torture was absolutely forbidden and, if it occurred, was punished (there were, he admitted, isolated cases of official brutality). When asked for details of action taken against officials found guilty of torture and maltreatment of prisoners he refused for reasons of security to divulge any information. He claimed that subversive organizations had instructed their members to make allegations of specific kinds of torture. It was, he added, the subversive organizations who first resorted to torture.

Clearly, the determination of the Argentine government to seek out and check abuses would be more convincing if the actions taken were no longer conducted in secret.

The conviction of the Argentine armed forces that they are fighting a "dirty war" which "goes beyond good and evil", and the success of which depends

on the use of counter-subversive techniques, has undoubtedly encouraged a systematic resort to ruthless measures against extremists. There is, among certain sectors of society, a widespread, though usually unspoken assumption that "subversives" have put themselves beyond the law and therefore deserve all they get. This assumption may have disastrous results; as the Episcopal Conference stated in July 1976, after the murder of three priests and two seminarians in Belgrano, if certain forces are allowed to act arbitrarily, "what guarantees, what rights remain for the ordinary citizen?"

The practice of torture - whatever the pretext given - cannot be acceptable to a civilized society. Torture, once permitted, is likely to become commonplace. In the present atmosphere in Argentina a citizen may well come under suspicion of harbouring extremist ideas if, for example, he possesses a copy of Pablo Neruda's poetry. If, in addition, such a person is picked up by members of the police or military, the practice of deferring an official arrest until his political record has been checked may well mean that in the interim he falls a victim to torture. The case is not merely hypothetical. It is in fact known that many innocent people have been tortured in the last few months.

Maximo Pedro Victoria, a nuclear physicist who worked for the Argentine Atomic Energy Commission, was arrested in April 1976. He was initially held on the ship Bahia Aguirre, until he was moved to the Villa Devoto prison and detained at the disposal of the Executive Power. In early September 1976 he was transferred with approximately 50 other prisoners to the prison of Sierra Chica, about 350 kilometres south of the capital. During the transfer all the prisoners were continuously and savagely beaten. Their heads were shaved. On their arrival at the Sierra Chica prison they were forced to sign documents saying that they themselves were responsible for the injuries sustained during transit. Those who refused were subject to further beatings and punishment. Maximo Victoria was released in October 1976; several teeth had been broken as a result of the beating and medical tests carried out after his release revealed that he had a serious protein and vitamin deficiency.

There does not appear to have been any serious attempt by the Argentine government to stem the use of torture. According to reports, it is widely practised in the barracks of the military and police. Common methods of torture are:

- electric shocks applied to all parts of the body with the picana (prod);
   "submarino": immersion in water with the head covered by a cloth hood; when this becomes wet, it sticks to the nose and mouth and when the victim is taken out of the water breathing is practically impossible;
- beatings with fists, truncheons, rifle butts and sticks;
- kicks;

- cigarette burns;
- plunging victims into ice cold baths;
- keeping victims hooded;
- forcing prisoners to stand in awkward positions for hours;
- depriving prisoners of food, drink and sleep;
- the subjection of women to all kinds of sexual abuse, including rape; in addition, pregnant women have been so badly beaten that they have

miscarried:

- exposure to attacks from savage dogs set on the prisoners by the guards.

The police headquarters building in Buenos Aires (Coordinación Federal) is often mentioned by victims as a centre of torture.

Isabel Gamba de Negrotti, a 27-year-old nursery school teacher, was abducted from her home together with her husband and taken to Comisaria 39 in Villa Urquiza in Buenos Aires. Although she told the police that she was pregnant, she was punched and beaten, her hair was pulled and she was threatened with death. She was kept hooded and her coat was taken away. She was threatened and beaten by about eight men, who said they would go and get her younger sister and mother. Later that evening, she had cramp spasms and began to feel ill. She could hear her husband screaming.

The next morning she was taken to Coordinación Federal so that her political activities could be investigated. The worst treatment began:

"They took me to another room where they kicked me and punched me in the head. Then they undressed me and beat me on the legs, buttocks and shoulders with something made of rubber. This lasted a long time; I fell down several times and they made me get up and stand by supporting myself on a table. They carried on beating me. While all this was going on they talked to me, insulted me and asked me about people I didn't know and things I didn't understand. I pleaded with them to leave me alone, or else I would lose my baby. I hadn't the strength to speak, the pain was so bad.

"They started to give me electric shocks on my breasts, the side of my body and under my arms. They kept questioning me. They gave me electric shocks in the vagina and put a pillow over my mouth to stop me screaming. Some-one they called the 'colonel' came and said they were going to increase the voltage until I talked. They kept throwing water over my body and applying electric shocks all over."

Two days later she miscarried. She is now in detention in Villa Devoto prison.

Carlos Baro, a member of the Communist Party Youth Federation and a doctor, was abducted from his home of 16 July 1976 by a group of armed men.

"We entered a building where I was led up a staircase to the first floor. I was immediately stripped, beaten, laid on a bed and subjected to torture - the picana (electric prod) in particular, for about one and a half hours. During this savage torture, they questioned me about the possible whereabouts of arms, printing materials and about people I didn't know. I spent a day and night without any food or water. On Saturday 17 July at about 3.00 pm I was taken back

to the torture chamber. For an hour or an hour and a half, the electric prod was applied to the most sensitive parts of the body: testicles, thorax, mouth, etc; after this, the savage mercenaries subjected me to what they called 'Asian torture', which consisted of pitching me into drums of water while hanging by the legs. They did this four or five times until I lost consciousness. When I recovered, I was again tortured with the electric prod for another hour (approximately), but this time with three prods at the same time. I should also state that they injected me with some substance — possibly toxic or infectious — in the big toe of my right foot, in the testicles and right arm, as well as pulling out the nails of my big toes and slashing a toe, then persistently applying the electric prod to these places."

During his captivity he was told that if he collaborated he would be placed at the disposal of the Executive Power; if not, "they had legal ways of leaving no trace of me".

His physical condition deteriorated; the only medical treatment he received was from another kidnap victim who had been held for a month. "The place I was in resembled a large shed." All those detained (about 20 or 30 young people) were referred to by numbers.

He was released on 21 July and abandoned on highway No 7 at Jauregui. He made a deposition to the Jauregui police, supported by a medical certificate which noted: gangrene of the right foot, abscesses on both testicles and scars all over the body.

From these testimonies and many others recorded by Amnesty International, it is apparent that torture is used as an integral part of the counter-subversive strategy by both official law-enforcing bodies and parapolice groups. Such practices constitute a serious violation of Article 5 of the United Nations Universal Declaration of Human Rights which affirms that:

"No one should be subjected to cruel, inhuman or degrading treatment."

The use of torture for any purpose whatsoever is categorically forbidden by Article 18 of the Constitution and by the Penal Code of Argentina. At no time has anyone in public office suggested that this specific prohibition has been abrogated by the State of Siege or the emergency decrees of the military government.

### REFUGEES

There have been a number of detailed reports about the precarious situation of political exiles in Argentina over the past two and a half years, notably the report of the International Commission of Jurists: The Application in Latin America of International Declarations and Conventions Relating to Asylum (September 1975) and, more recently, a report of a fact-finding mission by three Canadian parliamentarians to Chile, Argentina and Uruguay: One Gigantic Prison (November 1976). In preparing the following brief survey, Amnesty International has drawn on their findings, as well as on the personal testimonies of refugees received at its own offices. Moreover, the delegation had several meetings with representatives of the United Nations High Commission for Refugees (UNHCR) in Buenos Aires, who kindly organized a visit to two refugee hostels in the capital.

Until fairly recently, Argentina was renowned as a country that readily accepted political exiles from its neighbouring Latin American states. As military coups ousted civilian governments in Paraguay (1954), Brazil (1964), Bolivia (1971) and in Chile and Uruguay (1973), thousands were forced to flee their countries to escape political persecution. There are no accurate figures of the number of Latin American political exiles and immigrants resident in Argentina today: the Argentine authorities said in October 1976 that over the previous five years half a million immigrants had entered the country illegally. Only a few political exiles, about 300, have ever been formally granted political asylum in Argentina. Although the Argentine government is a signatory to the United Nations 1951 Convention and the 1967 Protocol on the Status of Refugees, it has maintained the geographical limitation of Article 1B(1)(a) of the Convention, recognizing as refugees (only) those affected "by events occurring in Europe".

During the Peronist government of María Estela Martinez de Peron, the security of the Latin American refugees living in Argentina steadily deteriorated. To be foreign became tantamount to being "subversive" and Chilean refugees in particular were threatened, intimidated and assassinated by parapolice groups. Moreover, there was evidence to suggest that the DINA, the Chilean secret police force, was operating in Argentina. (In December 1975, Senator Hipolito Solari Yrigoyen called for a special inquiry into the activities of the DINA in Argentina.)

Violent attacks on foreign residents occurred with alarming frequency. For example, in September 1974, five Uruguayan refugees were abducted in Buenos Aires and weeks later their bodies were found on the outskirts of Montevideo. In October 1974, the former head of the Chilean Armed Forces under the Allende government, General Carlos Prats, was killed together with his wife by a bomb planted in his car.

There were several cases of deportation of political exiles: in November 1974, William Beausire, an Anglo-Chilean, was kidnapped at Buenos Aires airport

whilst en route from Chile to Europe and was returned to Chile; in November 1975, two Paraguayan exiles, Alberto Alegre and Bienvenido Arguello, were arrested by Paraguayan security agents and forcibly repatriated.

The International Commission of Jurists, in its report The Application in Latin America of International Declarations and Conventions Relating to Asylum (September 1975), strongly criticized the standard of protection given to refugees in South America and commented that "thousands of refugees who had fled to Argentina from Chile, Uruguay and other countries were profoundly demoralized and alarmed by the uncontrolled attacks made on them, in part by the notorious Argentine Anti-Communist Alliance (AAA), the parapolice organization".\* In 1975, the UNHCR reported that of their mandate refugees, three had been shot dead, three had disappeared and were assumed dead, 69 refugees had received expulsion orders and 35 had been detained at the disposal of the Executive Power.

Despite the assurances given by the government after the coup that international laws would be respected, there was a significant deterioration in the situation of the refugees: they were the victims of an unprecedented surge of violence. Only four days after the coup, refugee centres throughout the country were raided by the police. In one incident, 19 refugees, resident in the José C. Paz hostel in Buenos Aires, were detained, interrogated and tortured. Moreover, on 26 March 1976, a new decree was introduced (Communique 44) which provided for the expulsion of foreigners for various reasons including "activities which affect social peace, national security or public order" and failure to report previous convictions in their countries of origin. As most of the exiles were politically active in their own countries, they feared that Communique 44 would make them liable to summary repatriation.

The general concern was such that the Minister of Foreign Affairs, Admiral Cesar Guzzetti, gave public assurances on 5 April 1976 that refugees would not be repatriated against their will. (In any event, Argentina, as a signatory to the Treaty on International Penal Law (Montevideo 1889) and the Convention on Extradition (Montevideo 1933) had acceded to the principle of non-refoulement, i.e. not to return political refugees against their will by extradition or otherwise to their country of origin.) However, these assurances were not borne out by subsequent events; moreover the abduction and killing of exiles markedly increased.

In April 1976, three Uruguayans were abducted in Buenos Aires; one, a teacher, Telba Juarez, was found dead with five bullet wounds in her body, in an industrial suburb of Buenos Aires on 9 April. The two others, Ary Cabrera and Eduardo Chiazzola, are believed to be among the five people whose mutilated corpses were washed up on the shores of the River Plate which separates Argentina from Uruguay.

<sup>\*</sup> For further details concerning this period refer to the International Commission of Jurists Report: The Application in Latin America of International Declarations and Conventions Relating to Asylum (September 1975).

On 10 April 1976 a Chilean, Edgardo Enriquez Espinosa (the brother of one of the founders of the Movimiento de la Izquierda Revolucionaria (Movement of the Revolutionary Left - MIR)) and a Brazilian girl, Regina Maccondes, were abducted in Buenos Aires. There are unconfirmed reports that Enriquez was taken back to Chile by DINA agents.

In May 1976, three prominent exiled politicians were kidnapped and murdered. Uruguayan senator Zelmar Michelini and Hector Gutierrez Ruiz (former president of the Uruguayan Chamber of Representatives) were taken from their homes in central Buenos Aires by armed men who identified themselves as police officers. On 22 May 1976, their bodies were found in an abandoned car, with the bullet-ridden bodies of two other Uruguayans, William Whitelaw Blanco and his wife Christina Barredo.

The former Bolivian President, Juan Torres, disappeared on 26 May. His body was discovered on 27 May 1976, 60 miles outside the capital.

On 6 July 1976 four young Uruguayans were kidnapped in Buenos Aires. They were held for one week in a "safe house" outside the capital, where they were tortured by members of the Uruguayan security forces. After their release on 13 July 1976, they went to France, where they were examined by members of Amnesty International's Danish doctors' team who confirmed that the marks and symptoms of the victims were consistent with their allegations of torture.

In response to these and many other incidents, the UNHCR made appeals in June and October 1976 to all governments to give priority to retugees from Argentina seeking asylum. The High Commissioner emphasized the gravity of the situation in Argentina in his opening speech of the Twenty-Seventh Session of the UNHCR Executive Committee in Geneva on 5 October 1976: "It is important and urgent that traditional countries of resettlement and other countries come forward generously to alleviate the plight of these refugees."

The Amnesty International delegation was told by a representative of the UNHCR in Buenos Aires that there are at present in the country approximately 12,000 registered refugees, a figure which remains fairly constant because as soon as the UNHCR manages to resettle refugees, more come forward seeking refugee status. Between 1 June and 30 September 1976, for instance, whereas the total number of people resettled outside of Argentina was 1,075, the total number given refugee status was 1,511. An official of the UNHCR informed the delegates that there were about 1,800 persons requiring immediate resettlement; in the month of October alone, 70 new urgent cases had been presented:

- 37 Uruguayans
- 30 Chileans
- 2 Bolivians
- l Paraguayan

These cases, categorized by the UNHCR as urgent, are mainly Uruguayan and Chilean refugees who have been officially detained or expelled or whose lives

have been seriously threatened\*.

## Refugees in Detention

Since the introduction of the State of Siege in November 1974, many refugees have been detained at the disposal of the Executive Power. The majority appear to have been arrested, not because they were involved in subversive activities in Argentina, but because of their political activity in their countries of origin, as is illustrated by the case of Dr Enrique Sepulveda Quezada. He is 65 years old and of Chilean nationality. A paediatrician by profession, he worked during President Allende's period of office as a journalist for the newspapers La Nación and Clarin. He was one of the founding members of the Chilean MIR and served as its secretary general for two consecutive periods.

He was initially arrested in Santiago de Chile in 1973. He was severely tortured in various centres in Chile, until one night his interrogators abandoned him in the streets of Santiago. He contacted friends and relatives and entered Argentina at the beginning of 1974.

Up until his arrest in Buenos Aires in February 1976, Dr Sepulveda had resisted taking part in any political activity in Argentina. His main concern had been to give humanitarian aid to compatriots in exile, and it is likely that this was the reason for his arrest.

Since February 1976, Dr Sepulveda has been held in preventive detention without charge or trial at the disposal of the Executive Power. He was initially held in Villa Devoto prison in Buenos Aires, but has recently been transferred to La Plata. It is alleged that he has been subjected to severe torture since his detention in Argentina.

The condition of Dr Sepulveda's health is reported to be very serious indeed. The torture he has undergone combined with his advancing age and poor prison conditions are cause for grave concern for his life\*\*.

There are cases of refugees accused of fairly minor offences, whose sentences have far exceeded the maximum penalty recommended by law. In August 1976, Andres Cultelli, a 56 year old Uruguayan, was tried for illicit association, possession of false documents and violation of border regulations between Argentina and Uruguay. His wife writes:

There were 359 cases - 973 individuals - urgently requiring resettlement December 1976.

<sup>\*\*</sup> In January 1977, Dr Enrique Sepulveda Quezada was served with an expulsion order.

"My husband was deprived of all legal counsel at his trial. A universal principle of law states that nulla pena sine lege. Nevertheless, Judge Spangenberg, who condemned my husband to 14 years in prison (although the maximum penalty provided for by Law 20.840 is 8 years and the Federal Prosecutor asked for 5 years) based this incredible sentence on the following charges:

- (a) possession of two books by Marx, which at the time of purchase, and even now, are freely sold in Argentina;
- (b) illicit association. Judge Spangenberg accused Cultelli of 'giving talks on Marxist economy' to groups of fellow Uruguayan exiles. Cultelli admits such conversations took place, but no law forbids them and no member of the Argentine (illegal) ERP (Ejercito Revolucionario del Pueblo) ever attended them;
- (c) former membership of the Uruguayan Socialist Party which the judge dubs 'Marxist', whereas in fact it was Social-Democrat; my husband acted as Secretary to its group of congressmen from 1957 to 1962, as of course it was legally recognized;
- (d) alleged former membership of the National Liberation Movement (Tupamaros) in Uruguay. If that were the case, the Uruguayan government, after arresting Cultelli in August 1970, would hardly have imposed the minimum penalty of 10 months in prison. In any case, he has already been tried for this alleged offence in Uruguay six years ago and Argentine law does not and cannot penalize a Uruguayan for having supposedly belonged in the past, in his own country, to this or any other political party.

"Neither in Argentina nor in any other country has Andres Cultelli committed any unlawful act, except that of using false identity papers in order to protect himself against the 'Death Squads', whose victims, such as former Uruguayan Senator Michelini, are numbered by the hundreds. And two years in prison seem more than enough to pay for such a minor transgression.

"Living conditions in the Sierra Chica prison are worse than ever; he is only allowed out of his small single cell three times a week for one hour at a time, and his health is failing. He has a heart condition and is half blind; in any event, at his age - 56 - a prison term of 14 years is equivalent to a death sentence."

Refugees in preventive detention, unlike nationals, have been allowed to leave the country under an expulsion order, providing that they are able to obtain

a visa for another country. A considerable number have been able to take advantage of this ruling; in November 1976 the Uruguayan Senator Enrique Erro, who had been held in Argentina at the disposal of the Executive Power for nearly two years, was finally expelled.

## Refoulement

Amnesty International is particularly concerned about the abductions and subsequent refoulement of Uruguayan exiles in Buenos Aires. About 70 Uruguayans, including eight children, have been abducted in Argentina since the coup. In some cases the victims were released or reappeared months later in detention in Uruguay. Others were killed or are still missing. During July and August 1975, evidence came to light that Uruguayan security forces were responsible for at least some of the disappearances.

In June and July 1976, about 30 Uruguayans living in Buenos Aires were abducted. Among the kidnapped were: Margarita Michelini, the daughter of the murdered Uruguayan Senator; two trade unionists, Gerardo Gatti and Leon Duarte; three members of the Rodriguez Larreta family. There was no information about their fate until August when a Uruguayan refugee, Washington Perez, arrived in Sweden. He gave a full testimony of how he had been forced by Uruguayan officials, some of whom he recognized, to act as an intermediary between them and a Uruguayan political group. The officials wanted Washington Perez, in exchange for the life of Gerardo Gatti, to transmit a demand for ransom to members of the Workers Students Resistance Party (Resistencia Obrera Estudiantil - ROE). On several occasions in mid-July, he was driven to a hideout near the capital where Gatti was being held. Gatti had been tortured and was in a very poor state of health. The negotiations eventually broke down on 17 July. The Uruguayans (among them he recognized Commissar Campos Hermida) then showed him another prisoner, this time Leon Duarte (abducted in Buenos Aires on 13 July 1976) and asked Perez to carry a similar ransom demand for his release to the ROE group. Perez suspected that the negotiations were a trap and that his own life and the lives of his family were in danger, so he left the country under UNHCR protection

In September and October 1976, more Uruguayan exiles were abducted in Buenos Aires. There was no further news about the missing refugees until 28 October, when the Uruguayan Joint Armed Forces issued an official communique announcing the detention in Uruguay of 62 persons accused of subversive activities. On 29 October, the same source provided extensive information about the alleged activities of the group, but named only 17 of the 62 prisoners. Fourteen of those named were among the group of 26 Uruguayans abducted in Buenos Aires on 13/14 July 1976; the other three had all disappeared on 27/28 March, whilst travelling from Argentina to Uruguay (Elida Alvarez, Ricardo Gil Iribarne and Luis F. Ferreira) and until the communique was published were feared to have been killed. According to the

communique the Uruguayan authorities claimed that they had unearthed a new subversive organization called the People's Victory Party - Partido por la Victoria del Pueblo (PVP) and stated that the 62 arrested were all members. The Uruguayan authorities claimed that some of these people had faked abductions (auto-secuestros) in Argentina in order to enter Uruguay clandestinely, to further the aims of their party. The aims of the PVP were said to include plans to assassinate several high-ranking Uruguayan government officials and organize a world-wide campaign of propaganda to bring the Argentine and Uruguayan governments into disrepute.

There are several discrepancies between the Uruguayan government's explanation of the arrests and the facts about the case known to Amnesty International; the theory of faked abductions cannot be seriously upheld when there are reliable eyewitnesses to confirm that the kidnappings took place in Argentina. Writs of habeas corpus were filed immediately after the kidnappings and in seven cases by the UNHCR itself. Two of the "prisoners" were living in Buenos Aires under the protection of the UNHCR. One of the 14 named prisoners, Sara R. Mendez Lamporio, had given birth only 21 days before her disappearance; the notion that she had entered Uruguay clandestinely to undertake subversive activities is implausible\*.

In December 1976, the Uruguayans acknowledged that other missing refugees were also in their custody: Margarita Michelini and her husband; Enrique Larreta and his wife Raquel Nogueira de Rodríguez Larreta. They released Enrique Rodríguez Larreta (father of the above). However, there are about 38 adults and eight children still unaccounted for who are presumed to be in the hands of the Uruguayan authorities.

It is apparent that in at least 17 cases the abductions of Uruguayan refugees in Buenos Aires were in fact carried out by agents of the Uruguayan security forces. The scale of the kidnappings inevitably implies the cooperation of some members of the Argentine armed forces and police. The refoulement of these 17 Uruguayans constitutes a serious breach by the Argentine government of the Treaty on International Penal Law (Montevideo 1889) and the Convention on Extradition (Montevideo 1933), to which it is a signatory.

There has also been a recent case of deportation involving a Paraguayan citizen, Dr Gladys Meillinger de Saneman, a medical doctor, and her husband, Rodolfo Jorge Saneman, a public accountant, both Paraguayan political exiles who were arrested on 26 March 1976 in the town of Posadas in the Province of Misiones. (Both Gladys Meillinger de Saneman and Rodolfo Saneman are members of the Paraguayan political party Movimiento del Partido Colorado - MOPOCO, which is a wing of the ruling Colorado Party of Paraguay engaged in non-violent opposition to the regime of President Alfredo Stroessner.) They were detained without charge at the disposal of the Executive Power and given expulsion orders. On 29 July 1976, Dr Meillinger de Saneman was removed from

the prison in Posadas where she and her husband were being held and handed over to members of the Paraguayan army. She had allegedly been badly tortured.

She is now detained in Paraguay in the Penal de Emboscada, a new prison camp 40 kilometres to the north of Asunción. Her physical condition is believed to be poor. Her husband is still detained in Argentina.

Clearly, persons with expulsion orders are entitled to choose a second country of asylum; the forcible deportation of Gladys Meillinger can therefore be seen as another example of refoulement by the Argentine authorities.

Such incidents have, understandably, increased the fears of the political refugees in Argentina. Consequently, there was a very poor response when the Argentine government issued Decree 1438/76 on 1 September 1976 obliging all immigrants without permanent residence in Argentina to register with the Department of Immigration before the end of December 1976. (The original deadline was 31 October 1976.) Refugees who register have to provide details about their former political activities and they fear that these details will be handed over to the security police of their own countries.

## CONCLUSION

In view of the current turmoil in Argentina, a report concerned with human rights must conclude by asking two basic questions. First, to what extent are human rights respected and defended by the government and to what extent are they violated? Secondly, to what extent are the violations explicable or necessary? On both of these questions, the assertions of the government are not supported by the facts available to Amnesty International.

After the coup in March 1976, General Videla stated that the military government had come to power "not to trample on liberty but to consolidate it, not to twist justice but to impose it". But legislation passed since the coup has progressively eroded the individual's liberty and numerous members of the security forces have trampled on that which remains. Justice has been perverted twice - by the imposition of laws which contravene the Constitution, and by the reluctance of the security forces to acknowledge any laws at all.

The state of martial law which is currently in force deprives all the citizens in Argentina of the most fundamental civil and political rights, their constitutional guarantees. What it means in practice is that merely on suspicion of subversion, a citizen may be arrested or abducted, neld for a long period incommunicado, tortured and perhaps even put to death. He has no legal safeguards against these measures, and, if it happens that he is released, no hope of legal redress.

Fundamental constitutional guarantees have been suspended since the coup, including the important Right of Option, which is now - unconstitutionally - at the discretion of the Executive Power. Military tribonals have been set up for all crimes pertaining to subversion; sweeping powers of arrest and detention have been conferred on the police. Furthermore, many of the decrees of the military junta free the police and the armed forces from any legal liability in the event of persons innocent of any subversive involvement or intention being detained, injured or killed.

The official suspension and unofficial neglect of fundamental legal rights has had alarming results. Since the coup, the number of political prisoners has increased — and more than three-quarters of these persons are detained at the disposal of the Executive Power: they have never been charged, have never been tried, and may be held indefinitely. Although, according to the Constitution, such prisoners are not supposed to be punished, they are held in punitive conditions. There is evidence that many have been maltreated during transfers and that the majority of them have been tortured as a matter of routine. Frequently, torture has been inflicted on people who have not been officially arrested but merely unofficially abducted. The number of abductions has increased since the coup. Friends and relatives find it all but impossible to ascertain the whereabouts of disappeared persons,

though in many cases they eventually discover that the disappeared person is dead.

The neglect of human rights in Argentina is all the more alarming in that it has no foreseeable end. According to provisions in the Constitution, the State of Siege may be declared only for a specified period of time; but no limit has ever been fixed by the present or the previous government. The citizens of Argentina therefore face an indefinite period without constitutional guarantees; prisoners in preventive detention face indefinite incarceration. There is no limit to the duration of the military government, no limit to the period a prisoner may be held incommunicado and no limit to the time that may elapse before he is brought to trial.

The current legislation in Argentina, together with the latitude allowed to various security forces, has then quite definitely led to gross violations of basic human rights. According to the government, the draconian legislation has been necessary to "restore full legal and social order" and to implement the required program of "national reorganization". A government official explained to the Amnesty International delegation:

"Systematic subversion and terrorism have cost the lives of many police and military and have compromised the security of the Argentine people. These activities have been repudiated by all citizens. If anybody violates human rights in Argentina, murdering, torturing and bombing, it is undoubtedly the terrorists. These people use violence for its own sake or to create chaos and destruction. We understand that the state has a right to defend itself, using whatever force is necessary."

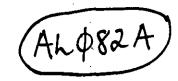
It is true that any impartial observer must condemn the outrages committed by left-wing extremist groups: they have detonated bombs in barracks and police stations, have kidnapped and assassinated members of the military and business executives. However, it does not seem to Amnesty International that terrorist violence may be held to justify the extreme, and extensive, measures taken since the coup by the government. Firstly, it is doubtful whether these measures are in fact entirely defensive, no more than what is necessary to contain guerrilla violence. The military itself admits that this violence has been greatly reduced\* - yet abductions, torture and executions apparently committed by the security forces continue unabated. In 1976, left-wing extremists were allegedly responsible for some 400-500 deaths; the security forces and parapolice groups for over 1,000. Secondly, even if these measures were justifiable as a counter-response to extremist provocation, the undeniable fact would remain that they also strike at innocent citizens. Given the present legislation, no one can rely on legal protection, and in view of the practice of the security forces, no one is safe from abduction

<sup>\*</sup> Speech of General Menendez in Famailla in the Province of Tucuman to celebrate the "Day of the Flag" (20 June 1976): "Subversion is generally in retreat and on the way to collapse."

and torture. Amnesty International believes there is overwhelming evidence that many innocent citizens have been imprisoned without trial, have been tortured and have been killed. The actions taken against subversives have therefore been self-defeating: in order to restore security, an atmosphere of terror has been established; in order to counter illegal violence, legal safeguards have been removed and violent illegalities condoned.

### **EXHIBIT D**

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Hipolito SOLARI YRIGOYEN (Phonetic soLAHree eereeGOzhen)

A lawyer, journalist, and Senator from 1973 until the coup in 1976, Solari Yrigoyen went into exile in Venezuela in May 1977, following his release from detention. He had been held without charges since August 1976 under the state of siege.

Solari Yrigoyen and a fellow Radical politician, Deputy Mario Amaya, were abducted separately by the Army in August 1976. (Both were apparently picked up because they criticized the gunning down of several prisoners in 1972 at a prison in Trelew, Argentina. The security forces claimed that the Trelew prisoners tried to escape; others said the prisoners were killed in retaliation for an earlier escape of terrorist leaders to Chile.) An international outcry followed the disappearance of Solari Yrigoyen and Amaya; the Army finally admitted they were under detention. In October Amaya died; Solari Yrigoyen claims it was the direct result of torture. Finally in May, Solari Yrigoyen was expelled to Venezuela. He had hoped to go to France but the Argentine government reportedly told him that his children would be harmed if he went there.

Solari Yrigoyen has had a lifelong dedication to human rights and democracy. This has led to rightist attempts on his life. In 1973 during Juan Peron's presidency, his car was blown up. He underwent six surgical operations as a result of injuries suffered in the bombing. His home was bombed in 1975 under Mrs. Peron's regime; he escaped unharmed.

American Embassy officers who know him describe him as a man of great Courage and principle - if somewhat quixotic.

Solari Yrigoyen is 43-years-old, married and has four children. He does not speak English.

June	、 1977	ARGENTINA PROJECT (S200000044) U.S. DEPT. OF STATE, A/RPS/IPS Margaret P. Grafeld, Director (X) Release ( ) Excise ( ) Deny Exemption(s):	DECONTROL
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