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CELS

Centro de Estudios Legales y Sociales

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September 6, 1983

The following bulletin is intended to serve as an "update" on human rights in Argentina during the month of August, 1983 and is directed towards those working on Argentina outside the country.

HUMAN RIGHTS BULLETIN: AUGUST, 1983

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ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPS

Margaret P. Grafeld, Director

Release () Excise () Deny

Exemption(s): _____

Declassify: () In Part () In Full

() Classify as __ () Extend as __ () Downgrade to __

Date _____ Declassify on _____ Reason _____

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Introduction

With elections still sixty days away, disintegration of the military government has reached the point where news headlines have read "There is no Government." Room for open repression has been drastically reduced in the last month. However, the doctrine which authorized kidnapping and elimination of thousands of young people, as well as a more generalized system of terror, has not been revoked with the retreat of its authors. This has been made starkly clear in recent declarations of several generals, who revindicate their actions in the so-called "war against subversion" and say that the struggle continues. Thus, a monstrous repressive machine is maintained, employing thousands of men who still operate with total impunity, if in a somewhat less centralized fashion. Not only do they collect intelligence data on all those considered to be in active opposition to the regime, but they continue in their terrorist activities, with telephone threats, kidnappings and more recently, the planting of bombs.

Until there is investigation and punishment of those responsible for the creation and implementation of this doctrine -- a doctrine signed by the top military authorities in public documents -- there are no guarantees that the current trickle of human rights violations will not explode into the political genocide Argentina lived between 1976 and 1979. With the sancioning of an amnesty law by and for the military expected to be imposed before the October 30th elections, there is the great danger that, unless annulled by the new parliament, the law will effectively institutionalize the illegal repressive practices, not only of this government, but of future military and civilian sectors eager to return to their days of power.

Arguments are heard from some politicians and foreign governments that human rights groups should pipe down now, and begin to work for the stability of the next constitutional government. They argue that pressure to repeal the amnesty and promote investigations will provoke a reaction from the military barracks, where there exists what has become known as a "Nuremberg complex" that could lead to another military coup. In general, the position of the human rights movements is that, on the contrary, only with a mobilization of forces inside and outside of Argentina to demand that the principles of truth and justice be respected will a stable base be formed for a future democracy.

Having obtained the largest turn-out ever for a human rights march in the August 19 "March Against the Self-Amnesty" -- over 50,000 people -- two major demonstrations have been planned for the period remaining before the elections. The first, called by the Mothers of the Plaza de Mayo, will be a twenty four hour march, beginning on September 21, demanding "the appearance with life of the "desaparecidos." The second, called by the eight human rights organizations, will take place on October 5th, and will be a "March for Life."

Even more importantly in this final period of military rule, the human rights movement, with the collaboration of a team of professionals, is preparing a massive report on human rights violations committed in the last eight years, focusing in large part on torture and disappearances. The report will process documentation gathered throughout this period, presenting testimonies of survivors of concentration camps, of witnesses, lists of names of military and police officials known to have been involved in illegal repression, etc. In essence, the several volume report will, once a congressman or senator

requests the formation of a parliamentary investigative commission to look into these crimes, permit the immediate commencement of this entity's functions. It is hoped that while the investigation develops, the congress will accept the collaboration and counsel of the human rights organizations, and that once terminated, the commission's conclusions will be turned over to the justice system. In this way, the human rights groups will extend the realm of their activities from the judicial camp and influence of public opinion, into active collaboration with the next constitutional government.

KIDNAPPINGS, THREATS AND PERSECUTION

1. Political Activists

- Aug. 17 Rubén Dominguez, a Communist Party leader, was kidnapped at 9 a.m. in downtown Rosario. He was freed 6 hours later on a highway outside of the city after having been severely beaten and threatened with death.
- Aug. 17 Carmen Adelaida Segades, a leader of the Partido Intransigente, led by Oscar Alende, was kidnapped at 8:30 p.m. on the street outside the party headquarters in downtown Buenos Aires. She was taken to the "Superintendencia de Seguridad" of the police and interrogated, beaten and threatened throughout the night. She was freed the next morning.
- Aug. 26 Human rights groups in Cordoba reported a series of events, which they said, "permit one to see the crude resurgence in the actions of the repressive apparatus." Representatives of "Intransigencia y Movilización Peronista" denounced the continued arbitrary detentions of young activists in the movement, and indicated that they are victims of a propaganda campaign accusing them of subversion. Representatives from the "Partido Intransigente" said that 8 of their activists had received death threats in the last week.

2. Press

- Aug. 9 Journalist Esteban Mario Ceyetano Cerrutti of El Porteño, a monthly intellectual magazine, received an anonymous telephone call in which he was threatened "So you are still worried about the disappeared? Be careful or the same thing will happen to you." The last issue of El Porteño included an editorial on human rights, an article by Augusto Conte, CELS' Vice-president and a congressional candidate, as well as an article on disappeared children. Cerrutti subsequently fled the country.
- Aug. 10 ^{El} The wife of Porteño editor Gabriel Isaias Levinas, while driving in her car accompanied by their two small daughters, was flanked by two Ford Falcon automobiles that smashed into her and sped off.

- Aug. 11 In early hours of the morning, the offices of El Porteno were blown up by a bomb, and totally destroyed. The homes of neighbors ~~were~~ damaged and a three year old girl was wounded by the explosion. That same morning, the editor's wife received a telephone threat in which she was told to tell her husband "to shut down the magazine or he will be killed." (The magazine reappeared with its September issue including an article by Conte and other human rights stories.)
- Aug. 22 Radio newscaster and journalist Mario Mintz of "Radio Splendid" reported that he had received death threats by telephone throughout the previous week, to the point where he had to "leave the phone off the hook to be able to sleep." The threats followed an interview with Patricio Guillermo Kelly, who spoke of the disappearances of several persons, mentioning the names of persons he considered to have been responsible. The anonymous callers threatened that the same thing would happen to him as occurred with Osvaldo Fernandez, a labor leader kidnapped and held for several hours last July 27th. Mintz had received threats two months earlier following the airing of an interview with Vicente Leonides Saadi, a left-wing Peronist leader.
- Aug. Radio news broadcaster, Carlos Mollard of Radio Argentina, received death threats relating to his political commentaries.

3. Judicial Branch

Federal Judge José Dibur has reportedly been threatened on several occasions. He is handling the investigation of the "A.A.A.", a paramilitarist group which was incorporated into the state repressive apparatus following the 1976 military coup.

Federal Judge Oscar Salvi, who ordered the arrest of retired Admiral Emilio Eduardo Massera, has been severely threatened, and has been forced to ask for constant police protection.

On August 4, Victor Corvalan, the lawyer representing the Cambiasso family in the Rosario investigation of the kidnapping of the Peronist leader, was threatened on several occasions. Among other incidents, his car tires were slashed, and the placard outside his law firm office was painted over with "Rest in Peace." Corvalán replaced the first lawyer handling the case, Arturo De La Torre, who was also threatened and finally chose to resign. The investigative judge, Jorge Eldo Juarez has also received several death threats.

4. Kelly Kidnapped

Patricio Guillermo Kelly, a right-wing nationalist leader, was kidnapped at 7:30 a.m. on August 24, while driving his car through a major residential district in Buenos Aires. According to witnesses, some thirteen men, including one dressed as an army coronel, carried out the operation, dragging Kelly from his car, and beating him with the butt of a gun before speeding away with him.

Witnesses also reported that ~~that~~ a police patrol car was parked nearby, and that at one point a policeman approached the kidnappers, but was assured by the man in the army uniform that all was in order. Following eighteen hours of massive commotion in the national press, Kelly reappeared, apparently having escaped on a highway outside of Buenos Aires.

In the last year, Kelly had devoted himself to investigation of the Italian mafia organization, Propaganda Two, and its links to the Argentine military. The detention of Emilio Massera, who he claims is a member of the Propaganda Two, resulted from denunciations made by Kelly on the disappearance of businessman Fernando Branca. Kelly also went after labor leader Lorenzo Miguel, accusing him of the assassination of his bodyguard and involvement in the paramilitary group "A.A.A." Kelly is the director of Quorum, a small magazine devoted to exposing the Propaganda Two that has been shut down five times in the last year by the military government.

Upon his reappearance, Kelly refused to explain the circumstances of his escape, but indicated that he would identify his captors before the justice system. In the following week, Judge Somoza, under pressure from Kelly and the press, ordered the arrest of Anibal Gordon, who Kelly identified as the leader of the kidnappers, and who he said also led the kidnapping and assassination of Marcelo Dupont, Helena Holmberg, Fernando Branca, and "many others." Several other people's arrests were also ordered, although no detentions have yet occurred.

While Kelly was still missing, Gregorio Dupont, a witness in the investigation of the disappearance of diplomat Holmberg and brother of Marcelo Dupont who was killed last October, together with Raúl Ibarra, witness in the Branca investigation, released to the press a list of names that Kelly reportedly received by mail from an anonymous informant. The eighteen people that appeared in the list, many with accompanying data on their past activities and even their addresses, made up a band of killers that worked sometimes for the state repressive apparatus and other times for their own personal financial deals or vendettas. Many of them, according to Kelly worked in a private intelligence firm run by retired General Otto Paladino. Gordon, himself, had worked for ten years in the National Penitentiary System, then for Army Intelligence, and finally for the infamous "Batallón 601" an army group responsible for the kidnapping and disappearance of hundreds of people.

Because of the strange circumstances surrounding Kelly's escape, of Kelly's claims that the armed forces had nothing to do with the kidnapping and that they must be purged of these "killer bands", and because of the huge number of crimes which Kelly attributes to Gordon (he has even said that the car he was kidnapped with may be the same one used in the Cambiasso killing), many people have speculated that the entire episode was fabricated to try and pin point a few scapegoats, diverting attention from the institutional responsibility of the armed forces in the thousands of disappearances.

THE "DESAPARECIDOS" AND ASSASSINATED

Cambiasso/ Perreira Rossi

Investigations underway concerning the assassinations of Osvaldo Cambiasso and Eduardo Perreira Rossi continue to be restricted by a climate of fear, and the constant death threats received by persons involved in the court proceedings.

Cambiasso, a former political prisoner and a member of the Executive Board of "Intransigencia y Mobilización Peronista" in Rosario, and Perreira Rossi, a Montonero leader living clandestinely in the country, were kidnapped from a downtown Rosario bar at 10 a.m. on May 14th. On May 17th, following

a tremendous mobilization of human rights groups and the press on the case, the police issued a communiqué declaring that the two Peronist leaders had been killed in a shoot-out in Lima, province of Buenos Aires, and denying that the Rosario kidnapping was related.

Two investigations were subsequently opened. The first, in Rosario, focuses on the identification of the two men kidnapped in the bar. The second, in Lima, examines the assassinations and the veracity of the police versions of the killings. In addition, an investigative commission was established by CELS, made up of 20 prominent lawyers, that is dedicated to stimulating the investigations with new information, searching for evidence to link the two cases, and keeping the press informed of developments.

The Rosario investigation, being handled by Judge Jorge Eldo Juarez, has, according to members of this commission, stalled following death threats received by the judge. The first lawyer defending the Cambiasso family, Arturo de la Torres, was also threatened and finally resigned. His replacement, Victor Corvalan, reported on August 4, that he too received a series of threats, as have several of the potential witnesses.

Juarez had initially ruled that the two men kidnapped on May 14 were, in fact, Cambiasso and Perreira Rossi, declaring himself incompetent in the investigation of the assassinations which occurred outside his jurisdiction. The case passed to Lima, where the judge promptly appealed to the Supreme Court, arguing that there was insufficient proof of the identities of the two men. The Supreme Court favored the Lima judge, leaving an unhappy Juarez once again with the investigation, lacking a second eye witness willing to testify.

The Lima investigation, being handled by Judge Juan Carlos Marquetti, led to the arrest in June of three police officials involved in the killings, who will be held until there is a final ruling. The principal element in the investigations has up to now been the results of a second autopsy, which, had been requested by the Cambiasso family doctor, who questioned the results of the first, carried out by Supreme Court doctors. The second autopsy turned up signs that both men had been tortured with electric shock, brutally beaten and shot at short range. Marquetti, unlike Juarez, is reportedly pushing ahead in the investigation and has summoned several residents of the housing complex adjacent to the place of the supposed shoot-out, to testify, in the hopes that there may be witnesses.

Key to the success of the investigations will be proof that the two crimes are linked. As it stands now, the police officials' defense lawyer can argue that the kidnapping and torture occurred before the killing, and that the two men may have been freed and made their way to Lima before confronting police in the supposed shoot-out. It was reported to Judge Juarez, however, that there is a witness, who saw Cambiasso and Perreira Rossi sitting in the back of a parked car on the highway between Rosario and Buenos Aires. The woman at this point in time is not willing to testify.

Remaining possibilities for establishing the military's responsibility in the assassinations rest on the three detained policemen. As the arrival of a constitutional government nears, these men may become frightened and begin to speak out against their authorities. Reportedly under discussion in military circles is the issue of whether or not to pass the entire case to the military justice system. If this were to be done, while they would be helping to avoid the possibility of the policemen speaking out and a more generalized rebellion of the police against the military, it would also be implicitly accepting responsibility for their role in the assassinations.

Despite the difficulties in the developments of the investigation of the case, the kidnapping and murder of Cambiaso and Perreira Rossi continues to carry significant political weight as it is the only instance in which the state terrorism apparatus clumsily unveiled its impunity, leaving behind important evidence precisely in a moment when the political situation has permitted the partial reactivation of the judicial system.

CELS vice-president, Augusto Conte, stated in a press conference on the assassinations: "They were shot in cold blood. The decision was made and carried out as a result of a doctrine, written and signed by the highest military authorities, that establishes the kidnapping and elimination of people without trials. Ana Maria Martinez was assassinated in February, 1982 and we said this would be the last death. We were not listened to. In the following months, there were the assassinations of Benedicto Ortiz, Marcelo Dupont, Dalmiro Flores, the disappearance of Ricardo René Haidar, and the unexplained killing of Clemente Yaguer, and, finally the grave events being considered now. Once again, we declare that these will be the last deaths, the last victims of this criminal military doctrine."

Massera Arrested

Former Navy chief and member of the military Junta from 1976 until 1978, Admiral Emilio Eduardo Massera is currently under arrest in Navy headquarters, accused of having withheld information in the investigation of the disappearance of Fernando Arturo Branca. Massera, who also has two other cases open against him, is the first top military authority to be imprisoned by the federal justice system.

The retired Navy leader was arrested on June 14 under orders of Federal Judge Oscar Mario Salvi. Eight months earlier the stalled investigation into the April, 1977 kidnapping of the Branca had been reopened following the November, 1982 denunciations of Guillermo Patricio Kelly. Kelly, having accused Massera of responsibility in the kidnapping, was assassinated on August 24th. The first judge to handle the case, Pedro Narvaiz, resigned last December, and fled the country reporting that he had received a series of death threats.

Kelly claimed that Branca, a wealthy businessman, was a financial associate of Massera's, and that Branca's wife, Martha McCormack was having an affair with the retired admiral. The motives for the assassination,

he implied, were both personal and economic. The method used was precisely that which Massera was accustomed to in despoising of his political enemies- kidnapping and disappearance.

Testimony provided by the victim's former employee and friend, Raúl Ibarra, corroborated Kelly's version of the disappearance. In addition to confirming that McCormack and Massera were lovers, Ibarra said that he had overheard the former, in an argument with her husband shortly before the kidnapping, tell Branca that "El Negro" (Massera) "is going to run you over with a truck when we get back to Buenos Aires." He also reported that on the day of the kidnapping, Branca was scheduled to go sailing with Massera.

Speculating on possible developments in the case, it seems clear that the charges of withholding information made against Massera may be expanded to include a direct accusation that he was responsible for the kidnapping. If found guilty of withholding information Massera may simply be obliged to pay a fine.

ESMA

On August 9, CELS presented a collective habeas corpus before Federal Judge Martin Anzoategui, on behalf of six groups of people known to have been kidnapped and held at the Navy Mechanics School (ESMA), and who have been neither seen nor heard from since.

The writ of habeas corpus presented must be responded to by the President, the Minister of the Interior and the head of the Navy. The judge must also, as emphasized by the CELS lawyers in their presentation, investigate all elements of the case, even if the authorities respond negatively and state that these persons are not being held by the government.

A collective habeas corpus was presented on behalf of the following missing persons:

Daniel Antokoletz. Lawyer, kidnapped on November 10, 1976 with his wife, Lilitana María Andres. His wife was released after seven days and presented evidence that the two were held in the ESMA.

Monica María Candelaria Mignone; María Marta Vásquez Ocampo de Lugones; César Amadea Lugones; Beatriz Carbonell de Perez Weiss; María Esther Lorusso Lammle; Horacio Perez Weiss. Group of youths, all of whom were kidnapped during the early morning of May 14, 1976. Among the evidence accumulated which led to the conclusion that the group was held at the ESMA, was the testimony of two Jesuit priests who worked with the youths in slums of Bajo Flores and who were kidnapped on May 23rd of the same year. The priests were held at the ESMA and were questioned on their friendships with several members of the group before being released five months later. Another group of young religious people, who were kidnapped with the two priests but were promptly released, also testified that they had been held at ESMA.

María Teresa Ravignani, Pablo Ravignani. María Teresa was arrested on July 8, 1976 with her father, José Enrique Ravignani. Her brother, Pablo, was arrested five days later. The father was freed on July 9th and recounted that he had been detained for several hours with his daughter in ESMA, where he had heard the cries of people being tortured. Witnesses confirmed that members of the Navy had come to the family's home to arrest the two youths.

Alcira Graciela Fidalgo. Arrested in public view in downtown Buenos Aires on December 4, 1977. On the following day, police reported to her parents, who were living in Venezuela, that she had been detained. The parents were subsequently in contact with Interior Minister Harguindeguy, and with his successors, General Liendo and General Saint Jean. A ticket to Venezuela was even sent to the Ministry of the Interior for Alcira's use.

Later, testimonies provided by Sara Solarz de Usatinsky, Ana María Martí and María Alicia Millia de Pirles, survivors of the ESMA, indicated that they had seen her in the ESMA between December, 1977 and April, 1978. They also reported that she had been detained by Lieutenants Alfredo Astiz, Antonio Pernía and Police Commissioner Weber.

Remo Barardo, Horacio Aníbal Elbert, Esther Ballestrino de Careaga, Patricia Oviedo, Eduardo Gabriel Horane, Raquel Bulit, Julio Fondevilla, María Eugenia Ponce de Bianca, Azucena Villaflor de De Vincenti, Angela Aguad, Sister Leonie Duquet, Sister Alice Domon. Group of relatives of missing people and two French nuns who were kidnapped from the Santa Cruz church in Buenos Aires and from their homes between December 8 and 10, 1977. The case has drawn international attention, and is particularly important in that the information gathered on the operation clearly shows the method of repression being used by the Navy apparatus, known inside the armed forces as Working Group 3.3/2, that was headed by former Navy commander and Junta member Emilio Massera, and supervised by Captain Rubén Chamorro, the director of ESMA.

All but two of this disappeared group were kidhapped from the Santa Cruz Church, where they had gathered to raise money for a Christmas advertisement demanding information on their disappeared relatives that was to be published in the newspaper. The add, which was the first time military authorities, judges and church leaders had been publicly questioned on the "desaparecidos", was published by survivors of the group under the headline "For a Christmas in Peace we only ask for Truth," despite the fact that the kidnappers had stolen the funds.

Among those who had signed the add, was "Gustavo Niño", later identified as Navy official Alfredo Astiz. "Nino" had been working with the relatives since July, 1976 claiming to have a brother missing. Witnesses say they saw Astiz enter the church with the kidnappers and point out which of the relatives should be captured.

Testimonies provided by survivors of ESMA, Sara Solarz de Osatisky, Ana María Martí, María Alicia Millia de Pirles, Martín Tomás Gras, Andres Castillo, Graciela Daleo and Alberto Girondo, not only report that the group was taken to ESMA, but confirm the participation of Astiz, as well as several other officials in the Santa Cruz raid. According to these testimonies the following Navy officials were involved in the Working Group 3.3/2 in ESMA: Alberto Gonzalez Menotti, Lieutenant Schelling, Lieutenant Radizzi, Prefect Hector Antonio Favre, Captain Jorge Acosta, Captain Jorge Perrén, Captain Vildoza, Captain Francis Williams Whamond; lieutenants Juan Carlos Rolón, Alejandro Spinelli, Miguel Angel Benazzi, Hugo Damario, García Velasco, Jorge Suarez, Dunda, Yon, Savio, Carlos Carella, Rivas, Suarez Mason, and captains Paso, Menendez,

and Luis D'Imperio. Also reported were the frequent visits of Coronel Roberto Roualdés, of the First Army Corp, and journalists Ezequiel Hugo Lezama, current director of the newspaper Convicción, and Hector Agulleiro, of Channel 11 Television.

Also derived from these testimonies, presented to the judge investigating the collective habeas corpus, were estimates that approximately 4,000 "disappeared" persons passed through ESMA between 1976 and 1979.

Finally, the writ of habeas corpus referred to conversations between Admiral Massera and former French president, Valery Giscard D'Estaing and Emilio Mignone, in which the Navy chief stated that the two French nuns were dead. CELS asked the that the judge summon Massera to indicate the source of this information, in the case that it be accurate.

Dagmar Ingrid Hagelin. Argentine/Swedish citizen, 17 years old at the time of her disappearance on January 26, 1977. Dagmar had gone to visit a friend, Norma Susana Burgos on that day and was never seen again by her family. Her father discovered through neighbors of the Burgos family that Dagmar had arrived at the house while it was surrounded by soldiers. When she realized she was in danger, she reportedly began to run and was followed by a young blond man, later identified as Alfredo Astiz, who shot and wounded her. One neighbor was forced to turn over his car to the men, which they used to take her away.

The girl's father learned from the police that the Navy had been in charge of the operation, and was even allowed to see authorization forms, declaring the area around the Burgos house as a "free zone" for the Navy. He also was told by Captain Perez Millán that Dagmar was "alive, prisoner and being held incomunicado." Nevertheless, neither the Hagelin family, nor the Swedish government have ever received an official explanation of Dagmar's disappearance.

Two years after the detention took place, Norma Susana Burgos was freed. She testified before the Swedish government that she had been held for two years in the ESMA. She said that she had seen Dagmar in the company of Alfredo Astiz, and that Astiz had admitted having shot her, explaining that he had mistaken her for María Antonia Berger, another friend who was supposed to visit the Burgos that day. Ten days after Dagmar arrived at ESMA, reported Norma, she was transferred to an unknown detention center.

Other witnesses asked to be summoned in the fifty page collective habeas corpus include such prominent figures as generals Videla, Viola, Harguindeguy, Diaz Bessone, Reston, Olivre Róvere, Flour-t, Vaquero, Camps, Alfredo Saint Jean, Ibérico Saint Jean, Liendo, Ojeda, and admirals Massera, Isaac Rojas, Chamorro, Montes, Allara and Anaya.

Almost a month after the presentation of this case before Judge Anzoategui, the armed forces still had not responded to the habeas corpus. The case, however, has been taken up by Judge José Dibur, in the investigation of the Argentine Anti-Communist Alliance (A.A.A.) a right-wing terrorist group that was incorporated into the state apparatus with the 1976 coup. Testimony provided by ex-police official Rodolfo Peregrini Fernandez, currently in exile in Holland, linked members of the A.A.A. to the ESMA. Dibur requested the documentation presented by CELS, and since then has summoned Massera to testify,

as well as Astiz, Chamorro (who is now in South Africa) and others. The Navy has issued a protest, stating that the investigation relates to state repression, and therefore corresponds to the military justice system. It is possible that with the sanction of an amnesty law, the case will be dissolved.

Judicial Morgue

On June 22, the Supreme Court dismissed meticulous documentation tracing the illegal burial of four youths killed by the state security forces, provisionally closing the investigation of the judicial morgue case. The documentation, presented to Federal Judge Hector Pierini in November, 1982, demonstrated the complicity of the judicial branch in the illegal repression.

Through tracing the fate of Norberto Gomez, who was kidnapped in his home in November, 1976, held clandestinely in the Navy Mechanics School, and killed several months later, the knowledge and lack of intervention on the part of the responsible judges was clearly shown. Gomez' body was brought to the morgue in March, 1977, an autopsy was done, and he was buried in an unmarked grave "N.N." in Chacarita cemetery in Buenos Aires. Judges neither identified the corpse, notified the family of the death, nor investigated the cause of his violent death, as required by law.

Several members of the Criminal Court were directly implicated in the case, which focused not only on Gomez, but on irregularities in the burials of other unidentified persons during the years 1976 and 1977. Mario Pena and Raúl de Noailles, two former presidents of the Criminal Court which administers the morgue, were implicated, as well as two secretaries who signed forms, (later leaked to CELS) authorizing morgue doctors to go ahead with autopsies and burials of corpses brought in by the military. It may be assumed that the assistants, Carlos Guardia and Susana Corbacho, were simply carrying out the presidents' orders. Pena is currently a legal advisor to the Ministry of Justice, while Noailles is subsecretary in the same ministry.

No mention was made of these persons by the Supreme Court ruling, nor did the court mention testimony offered by the doctor in charge of autopsies in the morgue, Avelino Do Pico indicating that the Criminal Court authorized autopsies ordered by the military. He also reported that the court received lists of persons brought to the morgue after having been killed in supposed military clashes, and that no judicial investigation was ordered in these cases. Dr. Do Pico also reported that he had made a special request to Judge Mario Pena that he increase the number of doctors working at the morgue during the years 1976 and 1977, because of the enormous surge in the number of bodies being brought in by the military. He emphasized that the top authorities of both the Supreme Court and the Criminal Court had full knowledge of this request, and the circumstances provoking it.

In a press conference held by CELS to repudiate the court decision, it was pointed out that this new information implicating the Supreme Court authorities themselves in complicity with the state repression, may be seen as one explanation of the abrupt closure of the investigation.

POLITICAL PRISONERS

As of August 31, 1983, the according to the Commission of Relatives of Disappeared and Detained Persons, the figures concerning political prisoners were as follows:

TOTAL RELEASED DURING AUGUST: 39

ACOSTA, Eugenio
 BALIN, Daniel Marcelo
 BALIN, Carlos Hugo
 BALMACEDE, Oscar
 CARDELLI, Jorge Justo
 CARRERA, Ricardo Alberto
 CIPRIANO, Aldo
 CORIA, Raul
 CORIA, Pedro Victor
 ILLANEZ, Carlos Alberto
 MASSA, Alejandro Raul
 MENENDEZ, Rafael Mario
 SANTELLA, Hugo
 PAREDES, Mario
 PARADISO, Daniel Ignacio
 PEREZ, Hugo Edgardo
 PERIE, Juan Domingo
 RUIZ, Hector José
 RAMIREZ, Juan Carlos
 RICO, Miguel Angel
 ROMERO, Carlos Rodolfo
 RODRIGUEZ, José Roque
 SCHALLER, Plutarco
 SIENKIEVICKS, Enrique
 SACCO, Enzo Domingo
 QUIROGA, Juan
 SCHVARTZMAN, Silvia
 CAVIGLIASO, Nilveo Teobaldo
 COBORA, Martin
 FRANCO, Carlos D.
 LOPEZ?, Carlos Raul
 MECHETTI, Gustavo Rafael
 PERAZZOLO, Juan José
 ALZUGARAY, Tomás
 AGUADO, Jorge Rafael
 MUZZOLON, Juan Albertto
 MORENO GUEVARA, Mario
 RIOS, Jorge Luis
 VOGLER, Lilitana

TOTAL REMAINING IN PRISON: 385

EZEJZA, Unidad 3 (Women)
 15 P.E.N.*
 28 Military Tribunals
 8 Federal Courts with P.E.N.*
 7 Federal Courts
 58 TOTAL

DEVOTO, Unidad 2 (Men)
 28 P.E.N.
 97 Military Tribunals
 24 Federal Courts with P.E.N.
 22 Federal Courts
 171 TOTAL

RAWSON, Unidad 6 (Men)
 26 P.E.N.
 62 Military Tribunals
 18 Federal Courts with P.E.N.
 28 Federal Courts
 134 TOTAL

Other Jails:

BORDA, Unidad 20 (Mental Hospital) - 1
 CORDOBA - 2
 MENDOZA - 1
 PARANA (men and women) - 11
 LORETO, MISSIONES - 1
 TOTAL 16

More than 150 released prisoners remain in "Libertad Vigilada", many of have been in this condition for as long as 10 months. ***

* Held at the disposition of the Executive Branch, without trial, under special measures included in State of Siege.

** If, for instance, sentence imposed by a federal court expires, the prisoner who also is at disposition of P.E.N. may continue in detention.

Released Prisoners

While many political prisoners have been released in the last year, the drama of their situation has, in many cases, only been modified. After what for most was over seven years in prison, with poor nutrition, lack of proper medical attention, extreme isolation and arbitrary punishment, virtually every freed prisoner carries with him or her some physical or psychological difficulty.

Given the general situation of the country, social reintegration and a return to good health, because of economic difficulties, is extremely difficult for the ex-prisoner. Simply finding work in a time when unemployment and under-employment is the highest in Argentine history, is in itself for a large percentage of the prisoners nearly impossible. Jobs in banks, large factories or businesses, and, of course, the entire public sector, are virtually closed to these people as a result of political discrimination. Police "check ups" on the person under "libertad Vigilada" or "Condicional" during work hours, insure that the employee knows of the individual's history, often times frightening him and leading to the firing of the ex-prisoner from his job. Those who are in these conditions also face the difficulty of the restricted zone in which they may seek work, especially limiting for those who do not live in major cities. In many industrial towns or belts outside of cities businesses have almost ground to a halt, and there simply is no work for anyone.

In addition to these economic difficulties, most prisoners are returning to families that have been destroyed by the repression. Many have family members who were kidnapped and have disappeared, or who have had to leave the country in order to save their lives. Because of the general age group of the prisoners (centering on the generation 28 to 40 years old) many also have small children who have been living with grandparents or abroad with a remaining parent. Finally, parents of the prisoners are generally in the retired bracket, with pensions eaten away by an almost 500% annual inflation, and rather than being able to help the newly released prisoner often look to him or her for financial assistance.

While several human rights groups have attempted to ease the situation through support of work cooperatives and direct financial assistance to those in crisis, there is no established structure capable of offering help to the over 5,000 released political prisoners in the country.

*** "Libertad vigilada" is applied to all those prisoners who were at the disposition of P.E.N. In general "libertad vigilada" lasts six months, and involves a series of restrictions. For instance, the prisoner must stay within a defined zone, is prohibited from going to public meetings or participating in politics, and must check in with the police every few days. "Conditional liberty" is given to those prisoners who, having been sentenced by a federal or military court, completed two thirds or more of their prison term. The conditional freedom involves the same restrictions as "libertad vigilada" except that the released prisoner is not restricted to a defined zone.

Ramirez Children

On August 15, CELS held a press conference in order to draw public attention to the situation of the three small children of ex-political prisoner, Julio Ramirez Dominguez. Ramirez, who was expelled from the country in 1980, has been denied the right to reunite with his children who remain in an orphanage in the province of Buenos Aires.

The father, who is of Paraguayan nationality, was arrested on December 13, 1974 and accused of possessing subversive literature. He was sentenced by a federal court to three years in jail, although he was held prisoner for almost four additional years at the disposition of the Executive Branch (P.E.N.). He was finally released October 30, 1980 and was expelled from the country, taking refuge in Sweden.

While he was in jail, his home was raided by the armed forces, and his wife, Vicenta Orrego Meza de Ramirez, and his three small children were kidnapped. His wife never reappeared and figures in the list of disappeared drawn up by the Permanent Assembly for Human Rights. His children were abandoned in the house of neighbors, and were later turned over to a children's court, under the supervision of Judge Martha Delia Pons. Judge Pons placed the children, now ages 11, 9 and 5, in an institution called "Casa Belén," where they remain today.

Since Ramirez arrived in Sweden, he has been fighting to bring his children to live with him. In October, 1982 CELS presented documentation, translated from Swedish, showing not only that the father is in economic conditions more than sufficient to provide a proper home for the children, but that, according to the Swedish authorities and to his local parish, he is in an excellent physical and mental state, he is "honest and formal", and wants his children to receive a religious upbringing.

Judge Pons of Lomas de Zamora rejected the petition, arguing that the father would "put in danger the security, education and the morality of the young children." CELS responded by lodging a protest in the National Supreme Court, which is currently under consideration.

AMNISTY LAW

After more than six months of rumors on the imminent announcement by the government of a "Pacification Law" which would amnesty those responsible for crimes of repression in the so-called "war against subversion," the military regime continues to postpone its promulgation. While the government has been weakened by the resounding rejection by the population of this law, as well as by its own internal divisions, from the military's point of view the amnesty must be issued before the October 30th elections, no matter what the political costs.

The issue for human rights groups has become, instead, what will the next government do with respect to the amnesty law. With sufficient pressure, it is possible that the new parliament would repeal it, either annulling it or, alternatively, derogating it and specifically stating the inapplicability of Article Two of the Penal Code, which says that in the case of two conflicting laws corresponding to the same crime, the most benign law always rules.

Presidential hopeful Raúl Alfonsín of the Radical Party, who initially stated that he would simply derogate the amnesty law, recently indicated that he would in fact support its annulment. Italo Luder, the Peronist candidate, who is also a constitutional lawyer, caught Alfonsín on his first statement, pointing out that derogation would do nothing because of Article Two. Luder, however, did not indicate that he would either annul the law or support the waiver of Article Two.

Following an outcry from within his party and a series of newspaper articles by legal experts that countered the Peronist's legal thesis with a series of their own arguments, Luder backtracked somewhat, but still has not defined his position.

Among the points worth noting that clearly demonstrate that in the final analysis this is a political not legal decision, are the following:

- 1) Under international law, crimes against humanity, such as torture and genocide, may not be amnestied.
- 2) According to the Supreme Court's traditional doctrine, laws promulgated by de facto regimes are not valid unless sanctioned by a constitutional parliament. The current doctrine dictates the opposite, that is, until derogated, laws issued by a de facto regime are valid. Nothing, however, will prevent the new Supreme Court (it is assumed that the current judges will be removed) from returning to the traditional doctrine.
- 3) The kidnapping and subsequent disappearance of a person is a crime that continues to be committed until the victim is proved dead or reappears live. Those responsible for the kidnapping may technically, then, be tried and punished in the future, even if the crime "began to be committed" during the period affected by the amnesty law.
- 4) In the event that the amnesty is not lifted, it is also important to note that it is not an institution, but rather individuals, being amnestied. To accept an amnesty implies an admission of the guilt of these individuals. It has also been speculated that, as was possible in Chile following the amnesty, investigations of denunciations may still be permitted, as it is necessary to establish the guilt of a person before granting him amnesty. Even if the amnesty law explicitly prohibits all investigations concerning the "war against subversion", there remains the problem of how to determine who will be amnestied. One possibility would be that the judge grant amnesty to members of the security forces when and

if they are accused of something.. The other possibility would be that the individual seeking amnesty admit his own guilt and ask the judge for an amnesty. All three of these possibilities of course, carry with them high political costs for the military.

Several other issues have emerged, concerning attitudes that could be adopted by the next president. Alfonsin, for instance, has declared his opposition to the creation of any extra-judicial organs dedicated to the investigation of crimes of repression. His position is that the justice system alone should investigate these crimes, avoiding establishment of "Nuremberg style" tribunals or "people's courts". What remain unclear, however, is his attitude towards a parliamentary investigative commission that would turn over its conclusions to the regular justice system.

Alfonsin has also stated that he would differentiate between those who gave orders and those who simply carried them out. Luder, on the other hand has said that this issue must be thoroughly studied, and avoided expressing his position. While in general the human rights organizations have resisted this distinction in responsibilities, some sectors have favored the idea as it would undoubtedly provoke conflict within the armed forces as they scramble to absolve themselves of responsibility denouncing the authorities. They also point out that even in the aftermath of Nazi Germany and the Greek military dictatorship, the final number of those tried did not amount to more than thirty or so in each case, and they express the doubt that more than this number could be punished in Argentina.

Meanwhile, within military circles the issue of the amnesty law has caused profound divisions. The Navy reached the point in early August of leaking to the press their opposition to the whole law, although that position was rapidly reversed under pressure from the Army. The Navy reportedly feared that it would be used as the scapegoat, with former Navy chief Emilio Massera offered up to a hungry public.

The time period for the amnesty was a key point of dispute in this conflict. While all agreed that it should begin in May, 1973 under the Peronist government, so as to diffuse the focus of the responsibility, the question remained as to its closing date. While it seems now that they have settled on June, 1982 when Nicolaides assumed and position in the Military Junta, (so as to be able to argue that this is not a self-amnesty) some sectors wanted to extend the amnesty to the present, so as to cover more recent crimes such as the assassinations of Cambiasso and Perreira Rossi.

Also under discussion is the issue of who should be benefitted by an amnesty. The original idea of an amnesty for the political prisoners and exiles, which they had hoped would sweeten the pill somewhat, soured when hardline sectors complained that terrorist leaders would be returning to the country. The result has been that it looks now like the only non-military people to be amnestied would be those at the disposition of the Executive Branch (P.E.N.), that would be released anyway with the lifting of the State of Siege. Prisoners condemned by federal or military courts would be unaffected, as would a handful of exiles the military deems to be "terrorists".

Finally, and perhaps most importantly, has been the issue of the implicit recognition of the guilt of the military upon the sanctioning of an amnesty law. Up to now, the armed forces have denied responsibility for the disappearance of an estimated 30,000 people. In addition, there are hardline sectors that have circulated documents complaining that the military has nothing to hide in its conduct of the "war against subversion" and advocate trial by military justice of the corrupt members and members who have committed "excesses" in the repression.

A reflection of this thinking was the announcement by the regime that some 200 military men were in prison in Caseros jail for "excesses" in their actions against the guerrillas. The revelation was designed to show that the military is capable of purging its own ranks. No names, however, were given, nor explanations of the crimes committed by these people or sentences imposed, nor any guarantees that these people are currently in jail, and had not simply served sentences of a few months and been released. As a result, the government statement carried little credibility, especially since it is known that often times members of the security forces would be sanctioned for having broken the military's own rules. For instance, in some zones, the military commander prohibited rape of female prisoners. In other areas there were rules on dividing the "war booty" stolen from the homes of persons kidnapped or detained. Torture and assassination, however, apparently were condoned.
