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INVESTIGATION INTO THE LEGAL SITUATION OF 14 PRISONERS WHO HAVE NOT BENEFITTED FROM THE OCTOBER 1987 AMNESTY

I. CHRONOLOGY OF EVENTS

In November 1987, most of the remaining 400+ long-term untried political prisoners in El Salvador were released under the terms of an amnesty approved at the end of October, in the context of the peace plan for Central America, proposed by President Oscar Arias of Costa Rica in August 1987. The Central American peace plan, intended to achieve peace in the region, included a call for amnesty which was to contain provisions to guarantee the inviolability of life and physical safety of those to whom it was applied. The Salvadorian legislation provided for absolute amnesty for those implicated in the commission of political crimes and common crimes connected with them, including persons not yet charged. Amnesty International welcomed the release of the political prisoners under the amnesty, some of whom had been held in untried detention for periods of up to five and six years and many of whom were held on the basis of statements extracted under torture. However, Amnesty International was concerned that the terms of the amnesty appeared to preclude the possibility that those responsible for past human rights violations might be brought to justice. Amnesty International is not in principle opposed to amnesties or pardons for people convicted of human rights abuses, provided that an accounting has been made and the facts brought to light. Failing to do so may give those responsible a sense of impunity which in turn could contribute to a climate conducive to further human rights violations.

After the amnesty had come into effect, 16 political prisoners remained in detention in the political sector of La Esperanza men's prison in cantón Mariona, San Salvador department. (One was subsequently released on 3 December 1987).

On 4 December 1987, Minister of Justice Dr. Julio Alfredo Samayoa reportedly claimed that there were no longer any political prisoners in the country, only common delinquents. In an article head-lined "Imprisoned Terrorists to be treated as Common Law Prisoners" ("Trato de Reos Comunes se dará a Terroristas Presos"), the newspaper El Diario de Hoy of 4 December quoted Minister Samayoa as stating "We will no longer allow political prisoners where the terrorists and subversives were previously housed" ("Ya no se va a permitir que haya reos políticos donde estaban alojados los terroristas y subversivos"). However, Amnesty International continues to receive information that people are still being detained apparently on political charges.

On 15 December three prisoners, Gerardo Hernández Torres, José Guadalupe Domínguez and Vladimir Guzmán Rosales, were brought into La Esperanza prison on charges of "subversive association". All three claimed to have been tortured after their arrest, first at army barracks and later at the National Police headquarters. In the early hours of 16 December, Gerardo Hernández Torres died in his prison cell, apparently as a result of the torture he had been subjected to prior to his transfer to La Esperanza prison. Also on 16 December, the Comité de Presos Políticos de El Salvador (COPPE), Committee of Political Prisoners of El Salvador, issued a communiqué denouncing Hernández Torres' death and holding the National Police responsible for his death.

On 19 December, the majority of the 16 non-amnestied political prisoners (as well as José Guadalupe Domínguez and Vladimir Guzmán Rosales) were forcibly removed from La Esperanza and transferred to detention centres in different parts of the country where they are reportedly held with common law prisoners (see below for individual case details). One prisoner, Manuel de Jesús Araujo Sánchez, died during the 19 December removal. He is reported to have been thrown from the first floor of the prison by members of the security forces, although the authorities deny this version of events and claim that Araujo Sánchez committed suicide. Amnesty International continues its inquiries into the case.

II. CURRENT SITUATION OF THE POLITICAL PRISONERS

After the amnesty, the remaining political prisoners in La Esperanza were reportedly ordered to vacate the political sector <1> because it was needed to house common law prisoners. The political prisoners apparently refused to agree to this but agreed to share their sector with common law prisoners. Although the troops who rounded up the remaining political prisoners for removal apparently told them that they were being transferred because they had refused to vacate the political sector, the political prisoners themselves attribute their forced removal to the fact that they publicly denounced the death of their fellow inmate Hernández Torres. The dispersal has also been widely interpreted as a move by the authorities to eliminate the degree of organization among the prisoners which the concentration at La Esperanza had permitted, and which had helped the political prisoners in denouncing their treatment to visiting foreign delegations.

In an effort to investigate the situation following the transfer, the Oficina de Tutela Legal del Arzobispado (Legal Aid Office of the Archbishopric) visited La Esperanza on 22 December. There they were shown a record in the prison log book which was described to them as a letter sent by the Director General of Penal Institutions in which it was stated that "as of 9 December 1987, the permits issued to humanitarian organizations, except the ICRC <2> and professionals as well as the personnel who need to visit the penitentiary, are being revoked."

<1> A separate sector controlled and run by the COPPE prisoners.

<2> International Committee of the Red Cross.

The current legal situation of those prisoners who did not benefit from the November 1987 amnesty remains unclear. As far as Amnesty International is aware, none of them have been brought to trial. The organization has received reports that they are not allowed to be in the same cell with other political prisoners and that other inmates in the various detention centres have been warned not to talk to them. Amnesty International is making inquiries with the Salvadorian authorities in order to establish their present status.

III. INDIVIDUAL CASE DETAILS

1. VIRGILIO ACEVEDO CASTELLANOS

Detained on 22 November 1985 in San Salvador by the National Police and transferred to La Esperanza men's prison on 10 December 1985.

Believed to be accused of involvement in the kidnapping for ransom of a former government Minister.

Place of detention: Penal de Santa Ana.

2. JOSE ANTONIO CERON RIVERA

Detained on 22 November 1985 in San Salvador by the National Police and transferred to La Esperanza men's prison on 10 December 1985.

Believed to be accused of involvement in the kidnapping for ransom of a former government Minister.

Place of detention: Penal de Gotera, Morazán department.

3. JOSE OVIDIO CERON RIVERA

Detained on 22 November 1985 in San Salvador by the National Police and transferred to La Esperanza men's prison on 10 December 1985.

Believed to be accused of involvement in the kidnapping for ransom of a former government Minister.

Place of detention: Penal de San Miguel.

4. GERMAN ECHEVERRIA VENTURA (also known as Roberto Antonio Echeverría González)

Detained on 22 November 1985 in San Salvador by the National Police and transferred to La Esperanza men's prison on 10 December 1985.

Believed to be accused of involvement in the kidnapping for ransom of a former government Minister, and also of subversive association.

Place of detention: Penal de Gotera, Morazán department.

5. JUAN ALBERTO HENRIQUEZ SALVADOR

Detained on 27 November 1985 in San Salvador by the National Police. Transferred to La Esperanza prison on 10 December 1985.

Believed to be accused of complicity in robbery and armed assault.

Place of detention: Penal de Sensuntepeque.

6. JOSE ROLANDO PINEL RODRIGUEZ

Detained on 22 November 1985 in San Salvador by the National Police and transferred to La Esperanza men's prison on 10 December 1985.

Believed to be accused of involvement in the kidnapping for ransom of a former government Minister, and of participation in "subversive" associations and activities.

Place of detention: Penal de Ilobasco.

7. JOSE MARCELO RIVAS GONZALEZ

Detained on 22 November 1985 in San Salvador by the National Police and transferred to La Esperanza men's prison on 10 December 1985.

Believed to be accused of involvement in the kidnapping for ransom of a former government Minister.

Place of detention: not known.

8. HENRI ANTONIO TORRES RIVERA

Detained on 22 November 1985 in San Salvador by the National Police and transferred to La Esperanza men's prison on 10 December 1985.

Believed to be accused of involvement in the kidnapping for ransom of a former government Minister.

Place of detention: Penal de San Vicente.

9. JUAN DE JESUS GARCIA FLORES

Held in La Esperanza prison since 27 May 1985. Apparently no charges are pending against him.

Place of detention: La Esperanza prison.

10. JULIO RAMIREZ MARTINEZ

Accused of theft of a firearm, property of the State and of injuring a policeman.

Place of detention: La Esperanza prison.

11. BEFELER GARCIA HERNANDEZ

Detained on 9 October 1987 and transferred to La Esperanza prison on 13 October 1987. Charges against him are not known.

Place of detention: Penal de Sensuntepeque.

12. WILIAM CELIO RIVAS BOLAÑOS

Detained in August 1985 and accused of participation in the June 1985 murder of four US military advisors and nine civilians in a restaurant in the fashionable Zona Rosa district of San Salvador. Also detained were Juan Miguel García Meléndez and José Abraham Dimas Aguilar (see below). The three are apparently held on the basis of extrajudicial "confessions" which they claim to have signed under torture. They were never brought to trial.

In November 1987 a military appeals court ruled that the crime committed was a political one and that therefore it was covered by the October amnesty. The Attorney General (Fiscal General) reportedly appealed against the decision on the grounds that the crime was of a common and not a political nature. The case was referred for final decision to President José Napoleón Duarte in his capacity as head of the country's armed forces. President Duarte, under heavy pressure from Washington, revoked the release order in April 1988, reportedly claiming that the amnesty did not extend to the killing of diplomats, a status which he says the US marines had because they worked as guards at the US Embassy in San Salvador.

Place of detention: Penal de San Miguel.

13. JUAN MIGUEL GARCIA MELENDEZ

See above.

Place of detention: Penal de Santa Ana.

14. JOSE ABRAHAM DIMAS AGUILAR

See above.

Place of detention: Penal de San Vicente.

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10. JULIO BARRIO BARRIO

Account of death of a witness, property of the State and of releasing a policeman.

Place of detention: La Esperanza prison.

11. BEATRIZ GARCIA BARRIO

Detained on 9 October 1987 and transferred to La Esperanza prison on 13 October 1987. (Source: report for the year 1987)

Place of detention: Penal de San Vicente.

12. WILMA CELIO RIVERA BARRIO

Detained in August 1987 and accused of participation in the June 1986 murder of (a) the witness, and (b) the witness. (Source: report for the year 1987)

In November 1987 a witness reported that the crime committed was a political one and that therefore it was covered by the October amnesty. The witness General (Fiscal General) reportedly appealed against the decision on the grounds that the crime was of a political nature. The case was referred for final decision to President José Napoleón Duarte in his capacity as head of the country's armed forces. President Duarte, under heavy pressure from Washington, asked the witness to return to the country. The witness did not return to the country of his birth, a matter which he says the US embassy had become involved in. (Source: report for the year 1987)

Place of detention: Penal de San Vicente.

13. JUAN MIGUEL GARCIA MELERO

See above.
Place of detention: Penal de San Vicente.