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U.S. Department of State

Uruguay Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

URUGUAY

Uruguay is a constitutional republic with an elected president, a bicameral legislature, and an independent judicial branch. In November 1994, former President Julio Maria Sanguinetti won a narrow election victory. He began his 5-year term in March 1995.

The Interior Ministry administers the country's police departments and the prison system and is responsible for domestic security and public safety. The police continued to commit human rights abuses.

The economy is a mixture of private and state enterprises and is heavily dependent on agricultural exports and agroindustry. The Government respects private property rights. The economy contracted 2.4 percent in 1995, but estimated growth for 1996 was 1.0 percent. Annual per capita income was about \$5,767 in 1995.

The Government generally respected the human rights of its citizens, and the law and judiciary generally provide effective means of dealing with instances of individual abuse. However, there were problems in some areas, principally continued police abuse and mistreatment of detainees, and poor prison conditions. Low pay and consequent lack of professionalism in police ranks continue to be a problem. Court cases sometimes last many years, resulting in lengthy pretrial detention. Other problems include continued societal discrimination against women and the black minority, violence against women, and one case of abridgment of freedom of the press.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

An earlier case resurfaced in June when the authorities identified a body, discovered in 1995 buried at a beach resort, as that of Eugenio Berrios, a Chilean chemist. He had disappeared from Chile in 1992 after he was called to testify concerning the assassination of former Chilean Foreign Minister Orlando Letelier. Berrios reportedly entered Uruguay illegally under protective military custody. He was last seen alive on November 15, 1992, when he showed up at a Canelones police station claiming that he had escaped from his captors. The police claimed that they returned Berrios to the custody of military officers. The Canelones chief of police destroyed the police station records and later had to resign because of that action. The Ministry of Interior conducted an internal investigation and determined that Berrios left for Brazil the day after the incident. The case was ignored until August 1995, when the presidents of Uruguay and Chile both agreed that the matter would be placed in the hands of the Uruguayan court, thus reopening the case.

b. Disappearance

There were no reports of politically motivated disappearances.

There were substantial calls for investigation into past disappearances, despite the 1985 amnesty which was confirmed by a 1989 plebiscite. In April a Senator whose father was tortured and killed in Argentina in 1976 called on the Government to investigate the fate of those who had disappeared in Uruguay. Also in April, a former navy officer acknowledged to the press that he had "acted inhumanely" but asserted that had not killed anyone nor known about the fate of those who had disappeared. He said that he assumed full responsibility and called on others to do the same. This was followed in May by a silent march in honor of the disappeared persons in which 50,000 people participated.

The press and a number of opposition political leaders called for an official investigation under the Amnesty Law, which obliges the executive branch to investigate cases of citizens who were detained and then disappeared. The Government and the traditional parties supported the military's insistence that there be no investigation and argued that the 1989 plebiscite resolved the issue. Since the return to democracy, three administrations have consistently refused to open official investigations into the fate of those who disappeared under the military regime.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits brutal treatment of prisoners, but the police continued to commit abuses. The Ministry of Interior did not receive any accusations of prisoner abuse or torture under the Sanguinetti administration, which replaced all the prison authorities.

The judicial and parliamentary branches of government are responsible for investigating specific allegations of abuse. A recently formed internal police investigative unit, staffed by attorneys, receives complaints from any person concerning possible noncriminal police abuse of power. While the courts seldom convicted and punished law enforcement officials for such abuse in the past, such prosecutions are occurring more frequently: For example, a tribunal upheld the prosecution of four police officers

(who were disciplined but not sent to prison) involved in the August 1994 Filtro hospital demonstrations in which police killed 1 person and injured 50. The court stated that the police had committed excesses and that their use of firearms was not justified. In a separate case, a court convicted and sent to prison two officers accused of robbing a bill collector.

Police officers charged with less serious crimes may continue on active duty; those charged with more serious crimes are separated from active service until the court resolves their cases. A Ministry of Interior report stated that 440 police officers on active duty had a prior criminal record; of those, 232 had committed crimes while on duty. The 1995 Public Security Law, now completely implemented, requires a proportional use of force by the police and the use of weapons only as a last resort, in accordance with United Nations codes regarding the use of force.

Conditions in prisons and juvenile detention facilities remain poor but not life threatening. As part of the new Public Security Law, a commission formed to study prison conditions and update legislation on penal institutions to bring them into compliance with international standards presented its report to the Government in June. It criticized the treatment of prisoners as contrary to minimal U.N. standards; cited overcrowding, lack of staff training, corruption, and physical violence as problems; and recommended the immediate closure of seven penal institutions.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution requires the police to have a written warrant issued by a judge before making an arrest. The only exception is when the police apprehend the accused during commission of a crime. The Constitution also provides the accused with the right to a judicial determination of the legality of detention and requires that the detaining authority explain the legal grounds for the detention. Police may hold a detainee incommunicado for 24 hours before presenting the case to a judge, at which time the detainee has the right to counsel. It is during this 24-hour period that police sometimes abuse prisoners, occasionally resulting in forced confessions.

A 1980 law stipulates that police confessions obtained before a prisoner appears before a judge and attorney (without the police present) have no validity. Further, should a prisoner claim that he has been mistreated, by law the judge must investigate the charge.

If the detainee cannot afford a lawyer, the courts appoint a public defender. If the crime carries a penalty of at least 2 years in prison, the accused person is confined during the judge's investigation of the charges unless the authorities agree to release the person on bail. This seldom happens. As a result, approximately 93 percent of all persons currently incarcerated are awaiting a final decision in their case. Because of the slowness of the judicial process, the length of time prisoners spend in jail before being sentenced may exceed the maximum sentence for their crime. Human rights groups claim that the uncertainty as to how long one will be imprisoned is a factor creating tension within the country's prisons.

The Government does not use forced exile as a means of punishment.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice.

The Supreme Court heads the judiciary system and supervises the work of the lower courts. A parallel military court system operates under a Military Justice Code. Two military justices sit on the Supreme Court but participate only in cases involving the military. Military justice applies to civilians only during a state of war or insurrection.

Trial proceedings are usually based on written arguments to the judge, which are not routinely made public. Only the prosecutor and defense attorney have access to all documents that form part of the written record. The courts introduced oral argument in 1990, but individual judges use it at their option. Most judges choose to retain the written method, a major factor slowing down the judicial process. There is no legal provision against self-incrimination, and judges may compel defendants to answer any question they pose. The defense attorney or prosecutor may appeal convictions to a higher court, which may acquit the person of the crime, confirm the conviction, or reduce or increase the sentence.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right to privacy, and the Government generally respects constitutional provisions and safeguards in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, but the authorities may abridge these rights if persons are deemed to be inciting violence or "insulting the nation."

All elements of the political spectrum freely express their viewpoints in both print and broadcast media. Montevideo alone has 8 daily newspapers and 6 important weeklies; there are also approximately 100 other weekly and a few daily newspapers throughout the country. Montevideo has one government-

affiliated and three commercial television stations. There are about 110 radio stations and 20 television stations in the country.

A 1989 law stipulates that expression and communication of thoughts and opinions are free, within the limits contained in the Constitution, and it outlines methods of responding to "inexact or aggravating information." The law calls for 3 months' to 2 years' imprisonment for "knowingly divulging false news that causes a grave disturbance to the public peace or a grave prejudice to economic interests of the State" or for "insulting the nation, the State, or their powers." The authorities use this law intermittently to set and enforce certain limits on freedom of the press.

The Government closed a radio station after an August 1994 riot; it remains closed, and the authorities never brought specific charges against the station or its owners.

In May a court sentenced the director and the editor of a leftist daily to 2 years in prison on charges of offending the honor of a head of state (the President of Paraguay). The judge based the sentence on the national press law and the Constitution rather than on whether or not the information in the newspaper was correct. The two were later conditionally released from jail, but the case is still pending. The sentence drew the attention and criticism of human rights groups around the world. In October a judge rejected another case involving a libel suit filed by a former president, on the grounds that freedom of

the press was an essential pillar and indispensable condition of democracy.

A June decree requires the Government's prior authorization for the import of newsprint. The Inter-American Press Association urged the Government to repeal this decree, calling it a "serious threat to the preservation of freedom of the press," inasmuch as it stipulates prior government authorization and grants the power to establish quotas.

The national university is autonomous, and the authorities generally respect academic freedom.

b. Freedom of Peaceful Assembly and Association

The law provides for these rights, and the Government respects them in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government respects them in practice.

The Government grants refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1961 Protocol. The Government grants asylum only for political crimes as set forth in the 1928 Treaty of Havana, the 1889 Treaty of Montevideo, and the 1954 Caracas Convention. The Government cooperates with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum did not arise in 1996. There were no reports of forced return of persons to a country where they feared persecution.

In December an appellate court decided not to extradite to Peru two members of the Tupac Amaru Revolutionary Movement (MRTA) and released them from custody. The two then applied to the UNHCR for refugee status. At year's end, the UNHCR had not determined if the two MRTA members met the conditions for such status.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right and ability peacefully to change their government. Uruguay is a multiparty democracy with mandatory universal suffrage for those 18 years of age or older, and there are no restrictions regarding race, sex, religion, or economic status. The Colorado party, the National (Blanco) party, the Broad Front coalition, and the New Space party are the four major political groupings.

A constitutional reform approved by plebiscite on December 8 did away with the old "law of lemas," by which a party could run multiple presidential and legislative candidates for the same offices. The candidate receiving the most votes from the party receiving the most votes filled the presidency, and each party gained seats in the Senate and Chamber of Deputies according to the percentage of votes that it received. The reform limits parties to one candidate, determined by internal party primaries, per elected office. The top two presidential candidates face a runoff election if no one wins a first-round majority vote.

Women and blacks face impediments to high-level participation in politics and employment in

government. Only 1 of 12 cabinet ministers is a woman. In the legislature that was installed in February 1995, 2 of 30 Senators are women (the first since 1973), and 8 of 99 Deputies are women. There are no minority representatives or cabinet officials.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and the law prohibit discrimination based on race, sex, religion, or disability. Despite these provisions, discrimination against some groups exists.

Women

Violence against women continues to be a serious problem. There were more than 400 reported cases of family violence, reflecting both an increased public awareness of the problem as well as a growing change in attitude among women. Previously, a woman's ability to file and sustain a complaint was hampered by the legal requirement to show lesions. The new Public Security Law provides for sentences of 6 months to 2 years in prison for a person found guilty of committing an act of violence or of making continuing threats to cause bodily injury to persons related emotionally or legally to the perpetrator. The Montevideo city hall has a hot line for victims of violence.

The Government has established an office of assistance for victims of domestic violence which trains police how to receive complaints of violence against women. The Government also asked the United Nations to resume a project, begun in 1990 but abandoned for lack of funds, designed to train judges, police, and prison officials how to handle crimes against women.

Women enjoy equality under the law but face discrimination stemming from traditional attitudes and practices. The work force exhibits segregation by gender. Women, who make up almost one-half the work force, tend to be concentrated in lower paying jobs. However, one-half the students now entering universities are women. They often pursue professional careers but are underrepresented in traditionally male-dominated professions. Human rights groups have criticized the Government because it still has not implemented a 1989 law for equality in the workplace. The Liceo Militar, a military-run secondary school that prepares officer-candidates for all the services, admitted 110 women, an indication of the military's movement toward integrating women into the military officer corps.

A small institute in the Ministry of Education coordinates government programs for women. There are a number of active women's rights groups, and many of their activities in 1996 centered on followup to the platform of action of the 1995 U.N. Conference on Women.

Children

The Government is generally committed to protecting children's rights and welfare. An institute in the Ministry of Interior oversees implementation of the Government's programs for children but receives only limited funding for programs. The Government regards the education and health of children as a top priority and believes it should do more to ensure free education and proper health care for all

children. Since 40 percent of children under the age of 5 live in 20 percent of the poorest homes, the Government is attempting to extend proper health and education to them with the help of the United Nations Children's Fund.

There are no societal patterns of abuse of children. Minors under the age of 18 are not subject to criminal trial, but receive special treatment with special judges and, when sentenced, stay in institutions run by the National Institute for Minors (INAME) for the set period determined by the judge. The Government currently houses all its problem minors in INAME. The most controversial aspect of the 1995 Public Security Law would allow the Government to put minors with a record of violent crimes in adult prisons if INAME has no room in its own institutions. Even though the law stipulates that minors would occupy separate facilities within the prisons, human rights groups adamantly oppose this provision. As a result, INAME has decided that it will not send minors to adult prisons.

People with Disabilities

The legislature passed a law covering the rights of the disabled in 1989. A national disabilities commission oversees implementation of the law. Although the law mandates accessibility only to new buildings or public services for people with disabilities, the Government is providing access to a number of existing buildings. The law reserves 4 percent of public sector jobs for the disabled.

In general the country has an excellent mental health system and an interest in the rights of people with mental disabilities. Nevertheless, a 1995 study of mental health institutions found that conditions violated a broad range of rights codified in United Nations principles for the protection of persons with mental disabilities. It found that treatment was limited almost exclusively to psychotropic medication and electroconvulsive therapy; commitment could occur with a vague diagnosis of "mentally ill;" there were no practical limitations on the length of commitments; once admitted, patients often found it very difficult to get released; there was little or no psychotherapy, rehabilitation, or vocational training; and there was little or no respect for the dignity or privacy of residents.

National/Racial/Ethnic Minorities

The country's black minority, estimated at 6 percent of the population, continues to face societal discrimination. The Government lacks adequate statistics on blacks, which contributes to a lack of awareness that problems exist. The latest report (1993) put the number of black university graduates at 65, and black professionals at fewer than 50. Blacks are practically unrepresented in the bureaucratic, political, and academic sectors of society. They lack the social and political connections necessary for entry into these groups. In a February 1995 public opinion poll, more than three-quarters of the persons interviewed admitted that racial prejudice existed, and two-thirds of them named blacks as the group that faced most discrimination. The Government is working with local minority organizations to address this problem and invited the leading black minority organization to help prepare an official report on racial discrimination.

A broader concern expressed by minority groups is that the high level of unemployment in other neighboring countries will prompt increased migration of workers from one country to another, giving rise to discrimination against blacks.

Section 6 Worker Rights

a. The Right of Association

The Constitution states that laws should promote the organization of trade unions and the creation of arbitration bodies. In spite of this provision, there is almost no legislation concerning union activities. Unions traditionally organize and operate free of government regulation. Civil servants, employees of state-run enterprises, and private enterprise workers may join unions. An estimated 12 percent of the work force is unionized. Labor unions are independent of political party control but have traditionally associated more closely with the Broad Front, the leftist political coalition.

The Constitution provides workers with the right to strike, and there were numerous strikes during the year. The Government may legally compel workers to work during a strike if they perform an essential service which, if interrupted, "could cause a grave prejudice or risk, provoking suffering to part or all of the society."

There are mechanisms for resolving workers' complaints against employers, but unions complain that these mechanisms are sometimes applied arbitrarily. The law generally prohibits discriminatory acts by employers, including arbitrary dismissals for union activity. Unions maintain that organizers are dismissed for other fabricated reasons, thus avoiding penalty under the law.

There are no restrictions on the right of unions to form confederations or to affiliate with international trade union groups; however, the one national confederation has chosen not to affiliate officially with any of the world federations. Some individual unions are affiliated with international trade secretariats.

b. The Right to Organize and Bargain Collectively

Collective bargaining between companies and their unions determines a number of private sector salaries. The executive branch, acting independently, determines public sector salaries. There are no laws prohibiting antiunion discrimination, but a 1993 executive decree established fines for employers engaging in antiunion activities. The law does not require employers to reinstate workers fired for union activities. However, in cases of legal challenges by union activists, courts tend to impose indemnization levels that are higher than those normally paid to dismissed workers.

Union members continued to file claims of discrimination with the Ministry of Labor, which has a labor commission that investigates all claims. In some of the cases, employers agreed to reinstate workers, but other cases remained unresolved at year's end.

All labor legislation fully covers workers employed in special export zones. There are no unions in any of these zones, but the few workers in these zones are not in traditionally organizable occupations. Because of the protected status given many of the companies in the free zones and the lack of union presence, occasionally companies will implement labor practices in violation of the law.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, and there is no evidence of its existence.

d. Minimum Age for Employment of Children

The Child Labor Code protects children; the Ministry of Labor and Social Security is responsible for enforcing the laws. Illegal child labor is not a problem. The law generally does not permit children under 15 years of age to work, but 12-year-olds may work if they have a special permit. Children under the age of 18 may not perform dangerous, fatiguing, or night work. Controls over salaries and hours for children are more strict than those for adults. Children over the age of 16 may sue in court for payment of wages,

and children have the legal right to dispose of their own income. However, many children work as street vendors in the expanding informal sector or in the agrarian sector, which are generally less strictly regulated and where pay is lower.

e. Acceptable Conditions of Work

The Ministry of Labor effectively enforces a legislated minimum monthly wage which is in effect in both the public and private sectors. The Ministry adjusts the minimum wage whenever it adjusts public sector wages, usually once every 4 months. The minimum wage, which was about \$95 (793 pesos) per month, functions more as an index for calculating wage rates than as a true measure of minimum subsistence levels, and it would not provide a decent standard of living for a worker and family.

The standard workweek is 48 hours in industry and 44 hours in commerce, with a 36-hour break each week. The law stipulates that industrial workers receive overtime compensation for work in excess of 48 hours and that workers are entitled to 20 days of paid vacation after a year of employment.

The Ministry of Labor and Social Security enforces legislation regulating health and safety conditions in a generally effective manner. However, some of the regulations cover urban industrial workers more adequately than rural and agricultural workers. Workers have the right to remove themselves from what they consider hazardous or dangerous conditions.

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