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URUGUAY: Torture and Doctors

TORTURE
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Preface

"I hereby swear that it will always be important to me, to the best of my judgement, to use my knowledge industriously and carefully for the benefit of society and of my fellow human beings ..." This quotation is part of the Hippocratic oath, named after the Greek physician Hippocrates (469-377 B.C.), which is taken by doctors before they receive their authorization to practice. But this fine oath is broken daily by doctors. Worst of all is doctors' participation in torture, which is in striking contrast to their obligation to administer their medical knowledge to the benefit of their patients. However, the cases in which such doctors have been taken to court are few, though not so in Uruguay. This book relates how a committee was created, already during the Uruguayan dictatorship in 1984, to examine accusations of doctors' participation in torture. This committee is unique in the world and proves that some doctors and medical societies take their ethical obligations seriously. We can all learn a lot from the description of the work of the committee.

The author, Dr Gregorio Martirena, is also internationally involved in the fight against the participation of doctors in torture, and has helped to formulate regulations for the setting-up of international tribunals against doctors and lawyers who are accused of human rights violations. The idea is that such tribunals should be set up when, for instance, the national medical society cannot guarantee that its members will act according to their ethical obligations. It is important that a doctor who is found guilty of participation in torture cannot continue to practice as a doctor. This demand is not based on empty philosophical theories and abstract ideologies. No! — it is a question of the most serious violation of the patient-doctor relationship. It is a fact that several patients have lost faith in the national hospitals because they have been faced with the doctor who took part in their torture.

It is of the greatest importance that other medical societies take on the same responsibility as the one in Uruguay. The united international medical profession should see to it that the Tokyo Declaration is followed, and that doctors found guilty of participation in torture cannot continue medical practice.

It is my hope that the publication of this book in English will inspire the continuation of the very important work against torture, nationally and internationally.

Ole Vedel Rasmussen, 1992
MD, DMSc, Medical Editor, TORTURE
Introduction

The thoughts contained in this book reflect the reactions of an ordinary man to the extraordinary and terrifying events which took place during more than a decade of military rule, an era which the people of Uruguay are now struggling to leave behind them forever. As the military authorities have survived, however much we may resent the idea, and threaten to interfere once more in the politics of our country if the opportunity arises, I believe it is worth denouncing — now, in this time of democratic assurances — much of what happened during those years of darkness, years which turned our lives upside down and brought grief, and often tragedy, to one in four Uruguayan families.

Also, as a doctor and trade-union leader, it is my duty to explain doctors’ deep abhorrence of the involvement of many of our colleagues in the violence perpetrated and in the torturing of political prisoners during nearly twelve years of military dictatorship.

It is comfortable and self-deluding to believe that we suffered at the hands of a small “elite” of ambitious Uruguayans. Cruel reality invariably reveals a planned orchestration of torture and terror in which a huge range of interests, both national and foreign, was at play.

I have never had any doubt that I was right in taking the moral risk of revealing events and actions, as I did even before the end of the period of military rule. I have always acted on the basis of exhaustive investigations and evidence. And I have raised issues which are now open to free discussion, to the challenge of anyone with more knowledge or information and, finally, to the ultimate judgement of public opinion, which will be formed by, among others, you, the readers of these pages.

Gregorio Martirena, MD, 1987

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A State immersed in the doctrine of national security negates the notion of human rights and is presented to the people as the very incarnation of the entire nation. The actions of the State are presented, first and foremost, as expressions of the thinking and will of the nation and the various sections of society are, without exception, neither heard nor consulted nor taken into consideration.

Thus a national leadership based on a false consensus is constructed, a leadership whose national objectives are defined by governing class and minority elites.

The division of the post-war world into West and East, interpreted simplistically as the “free” and “enslaved” worlds respectively, enabled people to forget the divide between North and South, between the developed industrial world (the USA and Europe) and the world of poverty (vast areas of Asia, Africa and Latin America) with its limited chances of development.

The powers of the Western world believe that it is in precisely these areas of Asia, Africa and Latin America that the threat of the spread of Communism lies and where a political doctrine is needed to stem the tide.

Thus “security” becomes the essential feature of the life of poor countries, both for the superpowers and for the Third World oligarchies allied to them. Even the example of great men, such as Bolivar and Artigas, who fought for the freedom and independence of Latin America becomes “subversive” when evoked as a stimulus for altering the status quo.

This is how the doctrine of national security is born, as an instrument of hypothetical security for the development of these nations. In practice, such ideas serve to suppress freedom of thought through torture, imprisonment, the systematic murder of opponents, insecurity as a way of life in face of the threat of any dissent. All this leads to a real doctrine of terror in the modern State.

The Communist threat justified the creation of the Inter-American Defence Committee at the Conference of Rio de Janeiro in 1942 and the founding of the School of the Americas in Panama in 1946. This paved the way for the military/police regimes of the 1960s and 1970s in Latin America, which were established supposedly to defend “democracy, stability, development and peace” in Latin American countries.

Thus, as early as 15 September 1971, almost two years before the coup d’Etat of June 1973, the Junta of Commanders of the Uruguayan Armed Forces claimed that its objectives were “to consolidate and maintain the active adherence of the population to democratic and republican ideals” and “to re-establish order within the country and protect national development”. In May 1973 (just before the coup), the same junta defined its basic objectives as “independence and sovereignty, territorial security, social security, institutional security, progress and the fair distribution of wealth”.

Achievement of these objectives led inevitably to the ousting of politicians and their replacement by armed forces determined to impose discipline according to their own criteria and to organize the country’s resources as though they were struggling against a constant subversive onslaught.

The stagnation of the economy, social protests and their violent suppression and outbreaks of urban guerrilla warfare led to the declaration of a “state of civil war”, which resulted in total and constant confrontation with the opposition, the repression of trade-union and university activities and the rapid development of a reign of terror which secured the “silent consensus” of a suppressed people.

Disappearance, murder and torture were the essential fulcrum of the “re-education” of opponents, endlessly seeking to destroy people’s personalities and wills. These methods were applied systematically and selectively.

And to achieve the best possible effect, use was made of the knowledge of those professionals – including doctors – who were part of the governing elite or who sold their consciences for positions of social or financial power.
Torture as an Instrument of the Doctrine of Security

For those who govern by applying the doctrine of security, torture is an essential instrument for the suppression of the people. It is an intentional and anonymous act which does not take place by decree or on the explicit political decision of certain power groups in government; it is a true by-product of authoritarianism, which needs torture to maintain total domination.

Of the many definitions offered, the one put forward by our Chilean colleague, Dr Sergio Pesutic, seems particularly valid: "It is a dehumanized means of power - he who dominates, tortures, particularly those who threaten to break the rule of submission".

The aetiology of torture has a truly Dantesque quality: it is the only disease caused by man, intentionally, here and now; a disease whose prime victim is neither the tortured nor the torturer, but rather the society in which anyone has the opportunity and incentive to torture others.

Today, torture is used highly selectively; its victims are those who have the power to rally others together and who have free consciences; the aim tends to be to break the individual to extract information without causing death.

The average person can hardly imagine the thousand and one forms that torture may take. We are all horrified when we see depicted on our televisions - that everyday form of entertainment, for most of the civilized world - feudal dungeons or scenes from the white man's conquest of our countries or modern film of Dr Mengele's concentration camps, yet we have little notion of the events in which we ourselves are protagonists, that past experience and technological progress have brought us to the heights of achievement in the depiction of the unknown and the constant taunting of one's defences, isolation and the sense of insecurity.

The simple plantón - standing, hooded, in the open courtyard of the barracks - becomes, as the result of fatigue, fear of the unknown and the constant taunting of one's captors, a real physical ordeal which finally results in the prisoner falling to the ground in exhaustion, only to be brought violently back to consciousness by a general beating-up and immediately subjected once more to this apparently innocuous form of punishment. The colgada [hanging], a common practice which lasts for 24-48 or more hours and is accompanied by innumerable blows for no particular reason, is a form of torture very similar to the hanging, drawing and quartering that the Spanish used against South American Indians, though rather more subtle. The picana eléctrica [electric shock], a product of modern technology, applied to the most unlikely parts of the human body, is an essential tool of the torture chamber, allowing the torturer to give vent to his perverted imagination.

The consequences of falanga, the "innocent" tapping of the soles of the feet with a stick, are evident in Chile and South Africa, where many people have had the arches of their feet destroyed by this form of torture, sometimes being left severely and permanently disabled. The submarino brings the prisoner near to death through suffocation, either in its "wet" version, using water or excreta, or in its modern "dry" version, which has come into vogue since the Vietnam War and the development of plastic bags. The caballete or potro, with the naked and hooded prisoner astride an iron bar for long periods. The rape and sexual assault of women detainees and the "utilization" of prisoners in psychiatric treatment in the Military Hospital. The "castration" of detainees in places used especially for torture. The arrest, and later "disappearance", of tens of thousands of men, women and children is a normal occurrence in countries which have been or are ruled by the doctrine of security.

In his work Las Prisiones Políticas en Uruguay: una continuación de la tortura [Political prisons in Uruguay: torture continues] - presented at the International Conference on Torture in Latin America, held in Buenos Aires on 2-5 December 1985, and published in the November 1986 issue of the medical journal Compendio - Dr Raúl Lombardi, former prisoner under the Uruguayan dictatorship, states that:

At the level of the individual, through physical aggression, through factors whose accumulative effect was disease - diet, cold and damp, lack of exercise and living space, lack of fresh air and sunshine, overcrowding, lack of hygiene, constant stress and the omission, negligence and inadequacy of medical attention; mental and emotional aggression, through weakening psychological defences, isolation and the sense of insecurity.

At the level of the family group, the aim was to destroy the family unit by the arbitrary system of visits, lack of direct contact and privacy, restriction and censorship of correspondence, and harassment of the family through awkward procedures, long delays, personal insults and humiliation.

At the social level, the aim was disintegration and isolation, through a systematic policy of hindering any access to information or discussion of the news; the official information offered was always biased and they also sought
to cut prisoners off from the world of work by making it difficult for them to continue studying or learning.

This revelation of what happened leads us inevitably to the terrible realization that doctors must have been involved in planning and developing the use of torture, making sure, among other things, that no marks were left and that any accusation would thus have no legal force, as it would rest solely on the testimony of the victim against the cynical denials of security officials.
Doctors as Protagonists in the Game of Torture

Now we can identify in the midst of the points already raised the central place of torture in the Third World, with the figure of the military doctor playing an essential leading role in deciding the nature, use and objectives of torture. The doctor as active or passive collaborator in activities such as managing to get hold of information on the prisoner’s admission file, information which enables those directly responsible for torture to learn of the individual’s particular physical or mental weakness or inability and so work on it with the utmost ferocity; the doctor who fails to give immediate assistance to a sick prisoner by delaying visits, refusing to prescribe medication or a special diet, etc; the doctor who gives emergency treatment to save the life of a tortured prisoner, making sure that he recovers only to be submitted to yet more torture; the doctor who gives a false cause of death for a prisoner by performing a partial autopsy or issuing a death certificate, often without actually examining the body; the doctor who participates directly in interrogations involving torture or directs the application of constant mental pressure to break the prisoner’s will.

During twelve years of dictatorship in Uruguay, doctors’ culpability as regards torture was severely increased because two doctors, Walter Ravenna and Justo Alonso Legúzamo, occupied the post of Minister of National Defence during this period; their silence and their failure to investigate the matter were instrumental in transforming our military quarters into empires of torture and death.

Until the early 1970s, the large majority of doctors who worked in the Health Corps of the Uruguayan Armed Forces did so as civilians. The Law on the Organs of the Armed Forces (Law No. 14.157) and Article 5 of Decree No. 783/73 made the exercising of their rights and the fulfilment of their duties subject to military jurisdiction, and the practising of their profession subject to the orders of military authorities who knew nothing of the universally accepted principles of medical ethics. Obviously, this legislation and the introduction of the doctrine of national security – which involved the ideological purging of the Armed Forces, since anyone who represented a threat to this ideology was removed from his post – validate the claim that military doctors were the medical arm of the repressive regime which committed serious and innumerable crimes against human rights. For many people, this claim may sound simplistic, but we are not talking about the ordinary man in the street or about someone with no hope of finding a job who joins the army; we are talking about doctors with an education and scientific training from an independent university, which is why we cannot understand why, at the low price of a supposed need, they collaborated with the forces oppressing their nation.

To enter the Universidad de la República [University of the Republic] and the Gremio Médico Uruguayo [Uruguayan Medical Association], essential pillars of the people’s conquests of the past forty years, every doctor must first accept a professional condition which identifies him with the well-being of others; his duties before established hierarchical structures may never detract from the fulfilment of his professional duty without implying a serious disregard for medical ethics.

Thus, the military doctor does not shed his ethical responsibilities by serving in the Armed Forces, he merely acquires an adjectival qualification for his substantive condition as man and doctor, which he can never renounce. Subjection to an alienating training and to a discipline whose aim is to deprive him of his humanity and his moral conscience as a doctor is inadmissible and incompatible with both the actual training of a doctor and the exercising of responsibility for the training of other doctors, which always require maximum freedom of conscience.

However it may shock the medical world of Uruguay, it is an historic and irrefutable fact that there were military doctors who participated actively or passively in the torturing of political prisoners or who, in the service of their employers, violated ethical rules which it was their duty to respect. Military doctors also have a collective responsibility for their failure to denounce – at the time or even more so now, two and a half years after the re-establishment of democracy – the fact that they belonged to an institution which was unquestionably practising outrages against human rights, on such a wide scale and with such powerful evidence that nobody could ignore it.

Before this, in July 1984 – when the dictatorship still held power in Uruguay – the Gremio Médico (which was represented by the Comisión Interlegional Médica [Inter-Union Medical Committee]) acted through its two fundamental organizations (the Federación Médica del Interior [National Medical Federation] and the Sindicato Médico del Uruguay [Uruguayan Medical Union], under Government control since 1975), to organize the Seventh National Medical Convention, which lasted for three days and was attended by more than a thousand doctors, both members and non-members of the Gremio Médico, at the AEBU offices (Asociación de Empleados Bancarios del Uruguay [Uruguayan Association of Bank Clerks]) in Montevideo. During the convention, and in the presence of military doctors, the systematic torture suffered by political prisoners and the violation of human rights by the dictatorship the was once more publicly denounced. In the absence of a law on compulsory medical association and a corresponding code of ethics – proposed long ago by the Gremio Médico del Uruguay and still not adopted – the Comisión Nacional de Ética Médica [National Commission of Medical Ethics] was set up by the unanimous decision of members of the Gremio Médico present at the Convention.
National Commission of Medical Ethics of Uruguay

The Comisión Nacional de Etica Médica del Uruguay [National Commission of Medical Ethics of Uruguay] was born of a unanimous decision of the Gremio Médico del Uruguay. The decision was passed during the dictatorship and endorsed by a Minute and has now become a piece of world history in that it was the first time that the United Nations Principles of Medical Ethics had been applied with regard to a doctor’s participation in the torture and death of a political prisoner. On 27 October 1984, the Gremio Médico took action on the investigative and analytical work of the Special Court of the Federación Médica del Interior by expelling from membership Dr Eduardo Saiz Pedrini (Second Lieutenant in the Military Quarters of Fray Bentos) for making a false statement on the death certificate and for concealing the torture suffered by Dr Vladimir Roslik, who died at the said military quarters on 16 April 1984.

The work on investigating and analyzing the participation of military doctors in torture began on 4 March 1985, in conjunction with representatives of the Sindicato Médico del Uruguay [Medical Union of Uruguay], the Federación Médica del Interior [National Medical Federation] and the Asociación de Estudiantes de Medicina [Medical Students’ Association], and with lawyers representing the Colegio de Abogados [Lawyers’ Association] and its Human Rights Committee. The Comisión de Etica Médica del Uruguay set up its offices in the premises of the Colegio de Abogados on the Fourth Floor, 969 calle Colonia, Montevideo; the commission’s current members are Drs Francisco José Ottonelli, Enrique Echeverría, Rodolfo Canabal, Rodolfo Schumann Pacheco, Susana Eirin and Mireya Argelaguet (all lawyers), and Drs Eduardo Yanezelli, Héctor Fontes, Luis Falconi, Gregorio Martirena, Prof Atílio Morqio and Prof Carlos Mendilaharsu, Drs Alvaro Yanes, Victoriano Rodríguez de Vecchi, José Pedro Cirilo and Agüeles Delfino (doctors); the administrative secretaries were Gloria D’Alesandro and María Julia Nunes.

As Uruguay has no regular body specializing in dealing with ethical misconduct nor any legally enforced code of ethics, the commission had to study existing national and international standards which could be applied.

A) International Standards

Universal Standards:

- Declaration of Human Rights, 1948
- Declaration of Geneva, 1948

(Declaration of the World Medical Association), the modern equivalent of the Hippocratic oath, by which the doctor declares:

I solemnly pledge myself to consecrate my life to the service of humanity; I will give to my teachers the respect and gratitude which is their due; I will practice my profession with conscience and dignity; the health of my patient will be my first consideration; I will respect the secrets which are confided in me, even after the patient has died; I will maintain by all the means in my power, the honour and the noble traditions of the medical profession; My colleagues will be my brothers; I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient; I will maintain the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity; I make these promises solemnly, freely and upon my honour.

- International Covenant on Civil and Political Rights, 1966
- Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, United Nations, 1975

According to this Declaration, no State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment, and each State is called upon to take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised within its jurisdiction. From the text of the Declaration, we quote from Article 1 and 2:

1) For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.

2) Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment,

and Article 12:

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.
Regional Standards:

B) National Standards
- **Ley 1088 de 1870** [Law on the Army – abolition of punishment by flogging and punishments involving torture];
- **Current Constitutional Regulations** (Articles 26, 72 and 332 of the *Carta Fundamental de 1967*);
- **Ley 15.737 de Amnistía no reciproca**, 1985. The Law on National Pacification is clear and categorical when it states in Article 50 that:

The Amnesty shall exclude crimes committed by police or military officers and associated or similar public officials who have been the authors or co-authors of or accomplices to cruel, inhuman or degrading treatment or the detention of persons who have since disappeared, and who have concealed any such conduct.

This exclusion shall also be extended to cover all crimes committed for political motives by persons who have acted under the protection of the State in any form or under government orders.

In the absence of reciprocal amnesty, crimes committed by public officials (military and police personnel, doctors employed by the army or police, etc) are subject to all the usual punishments and court procedures.

C) Special Standards and Codes of Ethics
- **Declaration of Tokyo**, World Medical Association, 1975\(^6\).

The Preamble of this Declaration states that:

> it is the privilege of the medical doctor to practise medicine in the service of humanity, to preserve and restore bodily and mental health without distinction as to persons, to comfort and to ease the suffering of his or her patients. The utmost respect for human life is to be maintained even under threat, and no use made of any medical knowledge contrary to the laws of humanity. For the purpose of this Declaration, torture is defined as the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.

The actual text of the Declaration is worth quoting:

1. The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused or guilty, and whatever the victim’s beliefs or motives, and in all situations, including armed conflict and civil strife.
2. The doctor shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.
3. The doctor shall not be present during any procedure during which torture or other forms of cruel, inhuman or degrading treatment is used or threatened.
4. A doctor must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The doctor’s fundamental role is to alleviate the distress of his or her fellow men, and no motive whether personal, collective or political shall prevail against this higher purpose.
5. Where a prisoner refuses nourishment and is considered by the doctor as capable of forming an unimpaired and rational judgement concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgement should be confirmed by at least one other independent doctor. The consequences of the refusal of nourishment shall be explained by the doctor to the prisoner.
6. The World Medical Association will support, and should encourage the international community, the national medical associations and fellow doctors to support the doctor and his or her family in the face of threats or reprisals resulting from a refusal to condone the use of torture or other forms of cruel, inhuman or degrading treatment.

- **International Code of Medical Ethics**, World Medical Association, 1949, 1968, 1983\(^7\).

The text includes the following among the duties of physicians in general:

> The physician shall not permit motives of profit to influence the free and independent exercise of professional judgement on behalf of patients. The physician shall, in all types of medical practice, be dedicated to providing competent medical service in full technical and moral independence, with compassion and respect for human dignity. The physician shall deal honestly with his patients and colleagues and strive to expose those physicians deficient in character or competence, or who engage in fraud or deception. A physician shall act only in the patient’s interest when providing medical care which might have the effect of weakening the physical and mental condition of the patient. A physician shall certify only that which he has personally verified. A physician shall always bear in the mind the obligation of preserving human life.

- **Principles of Medical Ethics**, United Nations, 1982\(^8\).

This text lays down the basic regulations of the universal system of ethical responsibility in this field. The six principles are:

*Principle 1.* Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

*Principle 2.* It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

*Principle 3.* It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

*Principle 4.* It is a contravention of medical ethics for health personnel, particularly doctors:
a) to apply their knowledge and skills in order to assist in the interrogation of prisoners and detainees in a manner that may adversely affect the physical or mental health or condition of the such prisoners or detainees and which is not in accordance with the relevant international instruments;

b) to certify, or to participate in the certification of, the fitness of prisoners or detainee for any form of treatment or punishment that may adversely affect their physical or mental health and which is not in accordance with the relevant international instruments, or to participate in any way in the infliction of any such treatment or punishment which is not in accordance with the relevant international instruments.

**Principle 5.** It is a contravention of medical ethics for health personnel, particularly physicians, to participate in any procedure for restraining a prisoner or detainee unless such a procedure is determined in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the prisoner or detainee himself, of his fellow prisoners or detainees, or of his guardians, and presents no hazard to his physical or mental health.

**Principle 6.** There may be no derogation from the foregoing principles on any ground whatsoever, including public emergency.

In his *Reflexiones para un juicio ético-médico* [Reflections for judgement based on medical ethics], aimed at other members of the *Comisión Nacional de Etica Médica*, whose ideas we fully share and whose dissemination we consider to be of especial interest, Dr Rodolfo Schurmann Pacheco, a distinguished lawyer and member of the *Comisión Nacional de Etica Médica del Uruguay*, states the following:

1. One of the socio-political features of Latin America in recent years, particularly in those countries where civil/military dictatorships hold, or held, power, is, or was, the subjugation of human rights through systematized practices.

   A paradigm of this illegal behaviour was the torture of people under questioning, on trial and found guilty by their interrogators, judges and prison staff, mainly military and police personnel, with the collaboration or concealment of doctors, lawyers and politicians who supported the governing regime.

   The common denominator of these passive subjects or agents was their position as "civil servants". In relation to people under questioning in Uruguay, torture became for the military authorities an "institutionalized" method of questioning to obtain confessions under constraint; in relation to people on trial and under prosecution, cruelty was part and parcel of prison treatment – naturally torturous – which ignored, also systematically, the provisions of the minimum regulations laid down not only by international law but also by the Uruguayan Constitution. With reference to the work of the *Comisión Nacional de Etica Médica*, judgement of ethics and values focused on the activities of military doctors who, with regard to people under questioning, acted as assessors, assistants or helpers in torture – by gauging the intensity of the torture, if not the agony, to match victims' ability to bear it – and, with regard to sick prisoners, failed to provide the necessary medical attention and participated in the application of inhuman, merciless and cruel treatment.

2. The unacceptable practices performed by military doctors include:

   A) participating in torture;
   B) assessing whether torture could continue without any imminent threat to the life of the victim;
   C) hiding the effects of, or generally concealing, torture;
   D) deliberately or unscrupulously neglecting sick or injured prisoners;
   E) submissively obeying the orders of the military authorities, even when such orders were prejudicial to the health of the sick or injured or involved cruel treatment.

3. Many of these practices may take the form of common criminal acts such as the infliction of injuries, the abuse of detainees, senseless violence, concealment or failure to provide assistance, which does not mean that they lie beyond reproach on the grounds of medical ethics; on the contrary, the gravity of misconduct exceeds the bounds of ethical jurisdiction and comes under penal law, thus giving rise to two negative judgements which, even though they may coincide in their condemnation, are nonetheless independent of each other. Although the rule is that any criminal conduct constitutes a breach of ethics, not every breach of ethics constitutes a crime. In this sense, the principle of legality inherent in penal law negates the elasticity or flexibility inherent in rules of ethics (no crime without law).

4. The fundamental law, perhaps the cornerstone of the universal system of ethical responsibility in this field, was adopted by the *General Assembly of the UN* on 18 December 1982. The supreme duty of all doctors, without any exception whatsoever, is to protect and preserve the health of the patients for whom they are responsible and to prevent suffering. The specific duty of the military or police doctor is to provide prisoners with the same health protection and the same care as they would offer to free persons. Similarly, it is their supreme duty not to inflict any form of cruel, inhuman or degrading treatment upon persons deprived of their freedom.

   In this sense, the standard definition of torture and other cruel, inhuman or degrading punishments could not be both more broad and final (Preceding Resolution No. 3452, XXX). By virtue of their profession, doctors have unavoidable duties towards mankind, duties which transcend considerations of personal, financial, administrative and political interest and "national security".

5. As regards military doctors and the practices attributed to them (often proven), there are some problems which have to be solved in accordance with the general principles of penal law, taking account of the elasticity and flexibility of rules of ethics (see end of Point 3 above).

   Thus, the problem of *due obedience* with reference to doctors, including military health personnel who must comply with their orders, must be solved with consideration of the quality of doctors, the hierarchy of which they are a part, their environment and, logically, the relevance or significance of the order given.

   In this sense, complying with orders which involve a violation of the duties and obligations imposed by their profession would constitute *undue obedience*.

   Thus, the problem of *ethical responsibility* has to be solved by taking account of each individual case, not grouping them together in any way, since the range of possible determining factors is very wide.

   Thus, the problem of *participation* in acts which violate medical ethics must be solved by taking account of the material and subjective aspects of each act or, objectively,
whether the person concerned took part in the act consciously and willingly.

Thus, finally, the problem of administrative failures or impositions must be solved by analyzing the attitude of each doctor towards them.

Here, the question of responsibility centres on the attitude of professionals towards the system, disallowing trite and simplistic excuses that irregularities and failures to provide assistance, or the cruel and inhuman treatment in which they participated, were not their fault, but that of the military authorities in charge of them; they must prove their disapproval of the system, their efforts to overcome this institutionalized failure to offer help, or even their denouncement of particularly serious events such as the diagnosis of wounds or death as a result of torture, the inhuman treatment of the sick or the impossibility of offering adequate treatment to a patient whose health was under serious threat or whose life was in danger.

Although a doctor may not be expected to be a "hero", he is expected to oppose and dissociate himself totally from practices which damage or aggravate the mental or physical health of prisoners.

Yet in the area of the state of necessity within the sphere of penal law – which exempts from responsibility any person who, in order to protect his life or integrity, breaches any of these laws for the sake of another – it is expected that the law breached be of less importance than, or at least of equal importance as, the law being defended, and that the person does not have any legal obligation to face the evil that threatens him.

How then, in the sphere of ethics, should we deal with a doctor who is subject to unavoidable humanitarian duties and yet participates in, tolerates, facilitates or conceals cruel practices such as those outlined in Point 2 above, and when the evil that threatens him is less severe than, and different to, that inflicted, and when he is ethically obliged to face it?

Ethics, and particularly medical ethics, exceed legal and penal boundaries by demanding acts of real abnegation, the unfailing fulfilment of professional duties, constant and candid altruism and even the suffering of the utmost sacrifice of one's own feelings and interests for love of another, which is not required under penal law, a discipline which puts the right of the individual and self-protection first.

It was also necessary for the Comisión Nacional de Ética Médica to draw up a code of procedure for analyzing and processing the many accusations brought before it, up until 31 December 1986, giving the accused doctor maximum guarantees of defence and secrecy as regards the accusations.

Procedure to be followed by the Comisión Nacional de Ética Médica del Uruguay

1. **Accusation**, which must include an account of the facts with as many details as possible – essentially, the date and place at which the events occurred, the name of the person being accused, details of his conduct and all existing proof of the events. The person making the accusation may be assisted by a lawyer.

2. **Verification of the accusation**: verification and, if necessary, clarification of any obscure points concerning the accusation.

3. **Presentation before the Plenary Committee** of the accusation, for acceptance or rejection. If the accusation is accepted, the session will nominate the team of examiners, which will consist of a lawyer and a doctor and, where the person accused is not a doctor, a third person of the same profession as the accused.

4. **Completing the summons** to summons any witnesses and using the necessary diligence to verify that the events denounced took place, in accordance with the decision of the team of examiners.

5. **Summoning of the accused** in order to take his statement.

6. **Hearing of evidence** if there is outstanding evidence for or against the defendant. The length of the hearing will be set by the team of examiners, depending on the case, and may not exceed 20 days; the authorization of the Plenary Committee must be sought for longer hearings.

7. **Report** of the team of examiners on all the events and its conclusions.

8. **Right to inspect** the examiners' report; where the examiners believe there has been a violation of the principles of ethics, the accused will be given a period of 10 days to inspect their report; this period will be fixed and will be notified by recorded telegram or by another method of recorded notification. The accused must give written notification when he has completed this inspection.

9. **At the end of the inspection period**, or once the inspection has been completed, the Plenary Committee will issue its judgement, which shall require an absolute majority of Commission members. The judgement shall be notified in the same way as the right of inspection.

Later, on 10 April 1986, the Plenary Committee of the Commission adopted the following provisions to be incorporated in the code of procedure:

a) Only the Commission, at a Plenary Meeting, may decide in all cases upon correspondence or memoranda to be sent to persons or bodies and, where appropriate in exceptional cases, to send copies of legal proceedings in course to other bodies.

b) Once examiners' reports have been presented to the Plenary Committee of the Commission, they shall in all cases remain in the secretariat until a later meeting so that they can be studied by its members, without prejudice to any examinations and analyses that the Plenary Committee may make during the meeting in which they are presented or during the following or any other later meeting, depending on the decision reached, and without prejudice to any further information which may become available.

c) Access to current proceedings by the defence for the interested parties, whether by the persons concerned or by their lawyers, may be authorized only by the team of examiners after the accused has made his statement; without prejudice to this, the lawyer may see the said statement and any subsequent statements and may formulate questions. Where the accused, although summoned for the purpose, refuses to make a statement, access shall be authorized to records of the proceedings. The lawyer, when not appearing in conjunction with his client, must be authorized in writing. Once the judgement has been reached, it will be passed on to the Gremiales Médicas – Sindicato Médico del Uruguay and Federación Médica del Interior – which will decide on the professional disciplinary action to be taken in each case and will request any punishment which may be appropriate through the usual legal channels.
References

6. World Medical Association Declaration of Tokyo. Guidelines for Medical Doctors concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Detention and Imprisonment. Adopted by the 29th World Medical Assembly, Tokyo, Japan, October 1975.
The Commission of Ethics: Its Work and its Rulings

The Comisión Nacional de Ética Médica began its work on 5 March 1985; between that date and 31 December 1986, it received more than 130 political prisoners who came forward of their own accord to make accusations regarding the torture they had suffered during twelve years of dictatorship, accusations which involved more than 80 military doctors.

The main obstacle faced by the Commission was the Ministry of Defence Resolution No. 15.057 of 7 August 1984, signed by Dr Justo M Alonso Leguiño, which was published in Bulletin No. 8082 of the Ministry of Defence:

The Ministry of National Defence hereby resolves:
1. to prohibit military doctors from making any type of statement before the ethical courts set up by the Seventh National Medical Conference; doctors must keep their commanding officer informed of any situation of this kind which may arise;
2. to publish these, notify the Health Service of the Armed Forces and keep records.

In view of this Resolution and of the need to obtain direct information of the medical histories of prisoners attended by the Military Health Service, the Commission had meetings with the Minister for National Defence, Dr Chiarino, who refused the request for case notes on the grounds of the right of the Military Health Service to have recourse to professional secrecy, and with Members of Parliament representing the country’s four political parties; at the time of writing, no reply has been received, nor has the Ministerial Resolution been repealed.

Despite this, many accused military doctors have come forward to make statements, accompanied by their lawyers, in the summary hearings held by the Commission.

We have today (1987) few rulings on doctors’ participation in torture to show the world, and this despite the Official Mission of the Uruguayan Government to the United Nations which, in 1985, had the sanctions against Uruguay for the violation of human rights lifted, and despite the sanction of the Law of Expiry on Military Crimes which was passed by the Uruguayan Parliament in December 1986.

What we can show the world is the conviction of a nation that human rights have been severely violated, a nation which has struggled desperately to gather more than five hundred thousand signatures to obtain a referendum to abolish the Law of Expiry and to force the Government to destroy the continuing power and intelligence systems of an army which numbers more than 50,000, in a time of peace, for a country with a population of less than three million, and which continues to influence the Government’s political decisions.

Few are the rulings, before the horror suffered by prisoners and the people of Uruguay, but we doctors, in our shame, are proud of the strict moral and professional sanctions applied to those who violated the universal principles of medical ethics by performing the functions of military doctors during the dictatorship — sanctions which have been introduced in individual cases brought before the court, but which weigh on the collective responsibility which falls on all military doctors of that period — more than 800 doctors, which is more than 10% of all medical workers in the country — for their participation and the various compromises made with a system which required them to take a military rank and to adhere to a pseudo-republican system, and which they accepted of their own free will.
In 1984, Dr Eduardo Saiz Pedrini, a second lieutenant and a member of the Asociación Médica Departamental de Río Negro [Departmental Medical Association of Río Negro], and therefore of the Federación Médica del Interior, was serving in the Ninth Regiment based in Fray Bentos, Army Division III, under the command of General Hugo Medina, now Lieutenant General (R) – the last Commander-in-Chief of the Army under the dictatorship and the first Commander-in-Chief of the Army under the new democracy of 1985.

On 16 April 1984, Dr Vladimir Roslik died in the Fray Bentos Camp; he had been arrested by military personnel 24 hours before at his home in the village of San Javier, where he worked as a doctor.

On 26 April 1984, the Executive Committee of the Federación Médica del Interior publicly stated that:

1. It regrets the death of its colleague and offers its wholehearted solidarity to his family, to the people of San Javier and to all medical personnel in Río Negro, linked to Dr Roslik by an unassailable human and professional bond.

2. It declares that only the full recognition of human rights and respect for the exercise of individual freedom will save the Uruguayan people from such situations.

3. The seriousness of the events surrounding his death and the vagueness of the information provided are incompatible with the most elementary principles of human coexistence, for respect of which the medical profession will struggle constantly and relentlessly.

4. It demands that the framework within which professional activities are performed ensure the total independence of criteria, which must comply only with irrevocable principles of professional ethics, and states its intention to support this position and to determine the responsibilities of all members of the medical profession.

5. It demands an immediate and full investigation to clarify the facts and the consequent responsibilities.

It considers it its duty to inform the entire medical profession and the country that it will carefully examine the events in order to pass its final judgement at its General Meeting.

On 27 April 1984, in view of the death of its colleague, Dr Vladimir Roslik, and of the well publicized circumstances of his death, the Asociación Médica Departamental de Río Negro asked the Federación Médica del Interior resolved to take the steps it considered necessary to secure full clarification of the facts. On 7 July 1984, the Federación Médica del Interior held an Extraordinary General Meeting at the AEBU offices [Asociación de Empleados Bancarios del Uruguay, [Uruguayan Association of Bank Clerks]] in the city of Montevideo to discuss, as the first item on its agenda, “the report and resolutions on the death of our fellow member, Vladimir Roslik”.

The Meeting passed a resolution on the question and considered the role of Dr Eduardo Saiz Pedrini, who, on 5 July 1984, had sent the following note to AMEDRIN (Asociación Médica Departamental de Río Negro):


To the President of AMEDRIN, Dr Osvaldo Duffaut.

Having been informed by Dr Martha Saiz of the concern aroused during the working meeting of Monday, 2 July 1984 – which discussed the case of Dr – Roslik with reference to my professional position – regarding the position to be taken by AMEDRIN towards the Federación Médica del Interior, I hereby request a meeting with the Executive Committee in order to give details of my actions.

At 21.30 hrs on 5 July 1984, at the Hotel de Fray Bentos, in the presence of Drs Duffaut, Casaretto, Calvermater, Cresci, Levin, Sica, Romanelli, Peraza and M Saiz, Colonel Osvaldo Sarasola and José Medina, Dr Saiz stated that having been informed by his sister, Dr Martha Saiz, that the Executive Committee of AMEDRIN would be pleased to receive him in order to hear his version of the death of Dr Vladimir Roslik, which is to be discussed at the General Meeting of the Federación Médica del Interior on 7 July 1984, he agrees to answer to the best of his ability any questions and/or give an account of the events concerned.

He was asked to begin by relating the events.

Dr Saiz said that he was called to a certain area of the camp after midnight on 15 April 1984.

On arriving there, he found Dr Vladimir Roslik lying on his back on the floor and, at his side, the unit’s nurse (First Sergeant Agustín García), who was performing cardiorespiratory resuscitation, which Dr Saiz continued, in vain, for 15 minutes; having examined the body, he then declared Dr Roslik to have died from cardiac arrest.

He was then asked: Where were you when you were called?

Answer (A): In the unit’s sick bay.

Question (Q): Why were you there?

A: On orders.

Q: Why was the nurse there when you arrived?

A: I don’t know.

Q: Isn’t the nurse answerable to you?

A: Yes, as regards his work as a nurse, but as a member of the Army he is subject to military orders.
Q: Had you seen Dr Roslik that day?
A: Yes.
Q: How many times?
A: Three times.
Q: Why?
A: On orders.
Q: Are there specific intervals between examinations of detainees?
A: No.
Q: Is it the doctor who decides how often he should see a detainee or may he see detainees only on orders?
A: It depends: if there is a medical problem, the doctor monitors the patient, giving any necessary instructions. If there is no medical problem, the doctor sees the detainee on arrival and then once a day (when he visits the unit) or when necessary.
Q: What type of examination does the doctor have to perform?
A: Medical examination and determination of medical history, previous medical problems and whether any medication is being taken. Then, every time he examines the detainee, he must perform a full examination.
Q: Does the doctor’s report have any effect on later treatment of the detainee?
A: Yes. If the doctor finds a particular problem; for example, if the detainee has varicose veins, the doctor will advise against his being made to stand for long periods.
Q: When did you first see Dr Roslik that day?
A: About 8.00 hrs.
Q: When did you next see him?
A: At midday.
Q: When did you see him for the last time before midnight?
A: At about 20.00 hrs.
Q: Was he asked whether he was taking any medication?
A: He said that he wasn’t.
Q: What time was it when you first saw Dr Roslik that day?
A: About 8.00 hrs.
Q: When did you next see him?
A: At midday.
Q: When did you see him for the last time before midnight?
A: At about 20.00 hrs.
Q: Was he asked whether he was taking any medication?
A: He said that he wasn’t.
Q: What was Dr Roslik’s state of health when he first arrived that day?
A: Good, there were no medical problems.
Q: What time was it when you first saw Dr Roslik that day?
A: About 8.00 hrs.
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A: At about 20.00 hrs.
Q: Was he asked whether he was taking any medication?
A: He said that he wasn’t.
Q: What was Dr Roslik’s state of health when he first arrived that day?
A: Good, there were no medical problems.
Q: Was he asked whether he was taking any medication?
A: He said that he wasn’t.
Q: Were you present at the second autopsy?
A: Yes.

Q: Did you write the second autopsy report?
A: No.

Q: Did you attend the second autopsy meeting?
A: Yes, I did.

Q: Did you agree with the results of the second autopsy?
A: No.

Q: Did you express your disagreement with the second autopsy report?
A: No.

Q: Did you sign the second autopsy report?
A: Yes, but I disagreed with it.

Q: Did you explain why you disagreed with it?
A: No, I didn't want to discuss the second autopsy.

Q: Have you read what Dr Mautone said about the case?
A: Yes.

Q: What did you put as the cause of death?
A: Cardiorespiratory arrest.

Q: How did this come about?
A: When the employee from the undertakers came to ask for the certificate, I had received orders to go urgently to the Batallion; I gave him the incomplete certificate so that he could collect the body from the hospital; somebody photocopied the certificate and gave it to the press.

Q: What did you do with the certificate then?
A: I completed it.

Q: What did you put as the cause of death?
A: Cardiorespiratory arrest.

Q: Why didn't you answer the other sections?
A: I didn't complete them, as is appropriate for autopsies and conclusions. The doctor finally stated that "these were my first public statements regarding the Roslik case, which were made where I thought they should be" — to AMEDRIN".

Second Autopsy Report

On 16 April 1984, the second autopsy was performed in the city of Paysandú — the beginning of the truth about the death of Dr Vladimir Roslik. The second autopsy report reads as follows:

Paysandú, 16 April 1984.

The civil service doctors, Inspector Aníbal J Mojoli, Dr Adolfo Montañahan, Police Unit Doctor, and Dr Gonzalo Zuasti, Civil Service Supernumerary, hereby certify that, at 17.00 hrs on the date given above, they visited the morgue at the Central Cemetery to perform an autopsy on the body of Vladimir Roslik, Uruguayan, 42 years of age, which was performed in the presence of Drs Eduardo Lalus and Eduardo Saiz, doctors serving in the Military Medical Corps, and Dr Jorge Burjel, who was present at the request of the family. An external examination revealed that this was to be a second postmortem examination of a cadaver which had already been subject to an autopsy and partial evisceration prior to this examination. The cadaver presented: a circular incision of the cranium, extending to all planes, at the level of the middle of the frontal region at the front and the parieto-occipital region at the back. Semilunar incision in the thorax and median incision above and below the umbilicus, both of which had been sutured. External examination also revealed: intense paleness of skin and mucous membranes; cyanosis of the nail beds of both hands, not observed in other areas. Small amount of whitish sputum emerging from the corner of the mouth. Almost total absence of postmortem lividity, observed only in the posterior surface of the upper region of both thighs and the lower region of both sides of the gluteal region and very slight. Symmetrical blemishes 4 mm in diameter on the outer surfaces of both elbows, of the nature of postmortem support lesions. The following ecchymoses and haematomas were observed:

1) very slight ecchymosis 1 cm in diameter on the bridge of the nose;
2) haematoma 3 cm in diameter in the submental region, affecting the skin and subcutaneous tissue;
3) haematoma 4 cm by 2 cm in diameter in the right subclavicular region, affecting the skin and subcutaneous tissue;
4) haematoma 5 cm in diameter affecting the subcutaneous tissue and muscles in the pre-sternal region, at the level of the manubrium sterni;
5) two haematomas of approximately 5 cm each in the right subscapular region, affecting the skin and subcutaneous tissue;
6) two haematomas, each 2 cm in diameter, in the region of the inner surface of the right knee;
7) haematoma 2 cm in diameter affecting the skin and subcutaneous tissue of the lower third of the right leg;
8) haematoma of 1.5 cm on the dorsum of the right foot, affecting the skin and subcutaneous tissue;
9) circular ecchymoses on the right wrist — no subcutaneous bleeding observed at this level;
10) sclerae pale and devoid of petechiae; the same is true of the conjunctiva. No lesions of the type incurred in self-defense evident on the upper limbs.

Craniotomy: after the sutures had been removed from the scalp, the bulk of the brain was found to be missing, though the contents of the posterior cranial fossa had not been dissected or removed. Having removed the cerebellum and the brain stem, it was observed that there was acute vascular congestion of the meninges and parenchyma, with an area of subarachnoidal haemorrhage in the posterior region of the cerebellum. No lesions of the brain stem. No bone fractures. Bruising at the level of both temples. The fragments of meninges attached to the cerebellum present acute vascular congestion. No traumatic lesions at the level of the scalp or galea aponeurotica. No particularities of note in the skull. Once it had been removed from the abdominal cavity, the cerebrum presented multiple lesions caused by its removal; it was impossible to determine whether lesions of a traumatic or haemorrhagic nature had been present beforehand. No intraparenchymatous haematomas.
Thorax: when the chest was re-opened, it was observed that the organs had been replaced in a disorganized fashion; both kidneys, the liver, the spleen, the heart, the perirenal fat and both lungs, with hili intact, were present.

Having extracted the liver, it was noted that there was a jagged wound of approximately 3 cm in length in the upper surface of the right lobule, to a depth of 5 cm, with laceration and maceration of the parenchyma in this area; the lack of blood in the vicinity of the lesion was noted, as was the absence of blood in all the arteries and veins of the entire organ. There was also an area of bruising above this wound. When it was opened, there was no blood in the tissues but blister-like fluid emerged from Glisson’s capsule in the area.

When the spleen was withdrawn, a circular area approximately 6 cm in diameter was observed in which the serous capsule of the spleen and part of the subjacent splenic parenchyma had disappeared; on dissecting the spleen, there was massive bleeding from the tissues of the spleen.

Heart: echymoses were observed in the anterior surface of both ventricles, and an area of widespread haemorrhagic infiltration of the connective tissue below the pericardium and between the aorta and vena cava. No traumatic, acute, haemorrhagic or even ischaemic lesions were observed when the heart was opened. Fully patent coronaries, with no atheromatous lesions. Vascular pedicles sectioned. No sign of valvular lesions. No lesions of note to the endocardium. Areas of bruising, 10 cm by 3 cm, in the anterior mediastinal region, mainly around the aorta. On dissection of the area, circular echymoses approximately 1 cm in diameter were observed around the aorta and the inferior vena cava.

Dissection of the lung roots revealed bruising around the vessels and bronchi of both hili. There were no injuries to the larynx, which contained a small amount of pale frothy material. There were no lesions in the trachea or main bronchi, the contents of which were normal. The airways in the left lung were patent but those of the middle and lower lobes of the right lung contained material with the macroscopic appearance of stomach contents mixed with water and there were multiple petechiae at these sites. When the parenchyma of the lung was compressed, pale pink frothy material emerged. The consistency of the lung was increased by some small subpleural areas of bleeding in the right upper lobe. There were two areas of ecchymosis 3 cm in size on the inner surface of the right rib-cage at the level of the eighth and ninth ribs. There were no fractures of the ribs except those associated with the previous autopsy. The kidneys had been separated from the perinephric fat and their pedicles had been cut flush with the kidneys themselves. Opening and dissection of both kidneys showed no evidence of trauma but there was congestion of the parenchyma. There was extensive bleeding into the fat surrounding the left kidney. There was an area of ecchymosis 5 cm in diameter on the internal surface of the posterior wall of the left lumbar fossa, mainly affecting the deep muscles. There were no superficial injuries on the external surface.

Stomach distended, its wall translucent and its contents — approximately 100 cm³ of a greyish green colour, opaque, fluid and fetid. There were punctate haemorrhages in the mucosa in the distal section. The omentum was in front of the small intestine and bore scar tissue from an old appendicectomy. In the small intestine, there was a small area of bruising in one of the final sections of the ileum, though this showed no sign of being of traumatic origin. In the large intestine, there was a tear in the left mesocolon, possibly caused by the previous autopsy. There were no other lesions in the abdominal region, nor in the other organs currently contained therein.

To summarize:
1) We do not have the first autopsy report;
2) We do not know the exact circumstances in which the death occurred;
3) There are traumatic, superficial, parietal and visceral lesions; the latter, together with the intense paleness of the skin and mucous membranes, the almost total absence of post-mortem lividity, the absence of cyanosis of the nail beds of both feet and the lack of blood in all the vessels suggest the existence of acute anae mia.
4) There are also direct and indirect signs of asphyxia, such as Tardieu’s spots and extravasation of blood at the hil of the lungs, around the heart, in the parietal meninges of both cerebral hemispheres and in the subarachnoid space over the cerebellum, with punctate haemorrhages in the mucous membrane of the stomach, frothy liquid in the larynx and pharynx and an abnormal fluid in the distal bronchi of the lower and middle lobes of the right lung.

Cause of death: acute anaemia; asphyxial syndrome. Under the circumstances, and because this is a second autopsy, it is impossible to determine which of these conditions, or the lesions associated with them, was the ultimate cause of death. Signed: Adolfo Montauban, Gonzalo Zuasti and Anibal Mojoli.

On 7 May 1984, in Montevideo, Drs José Mautone and Augusto Soíza, appointed by the Fifth Circuit Military Tribunal as pathologists in the proceedings regarding the death of Vladimir Roslik, concluded that:

1) Vladimir Roslik died a violent death as the result of several causes:
   a) fluid matter, of a nature similar to that contained in the stomach, had entered the bronchi; when breathed in, this fluid obstructed the airway, causing acute asphyxia, rapidly leading to death;
   b) there was a tear in the liver, with a subcapsular haematoma which caused a loss of blood to the general circulatory system;
   c) there were signs of multiple external and internal injuries.
2) All the aforementioned causes combined to cause the death, being so interrelated as to be inseparable.
3) The external and internal marks on the body which support these conclusions have been described in the transcription of the autopsy reports and the legal and medical considerations to which we refer.
4) Although it is unwise, in the sphere of legal medicine, to deduce fundamental facts from anatomical analyses, it can be rationally and scientifically established that:
   a) under certain physiological and psychological conditions (stomach full of liquid, fatigue; great anxiety, stress), the sudden intake of even a small amount of liquid into the airway may, in addition to causing asphyxia through even partial obstruction of the airway, stimulate abnormal reflexes in the larynx and bronchi which lead to cardiorespiratory arrest as a result of shock to the vital (respiratory and cardiovascular) centres;
   b) loss of blood to the general circulatory system depends on the speed and magnitude of the process.
(it is more dangerous to lose a litre of blood in hours than in days). The shock caused has the same effect as multiple injuries, thus further destabilizing the condition of the victim;

c) where a person is in a condition of critical instability in which his life is already at risk, any further injury, even though it may be of little significance in itself, will help to aggravate his condition and lead to death.

The experts believe that all these factors to a greater or lesser degree combined to cause a state of physical instability which finally led to the death of the individual concerned.

At a press conference held at the Supreme Military Tribunal on 29 May 1984, the President of the Tribunal, Colonel Federico Silva Ledesma, released some official details regarding the Roslik case.

Colonel Silva Ledesma said:

I have called you here because, in accordance with the announcement made yesterday by the Commander-in-Chief of the Army, the military justice authorities are in a position to make a preliminary statement regarding certain events and items of news about which the public are very concerned and with which you, in your eagerness to provide information, have been constantly preoccupied; we have not always been able to give you all the details you wanted because the proceedings are in camera and because it is the judge who is in charge of the investigation.

For us to have made a statement regarding any decision would have been an interference with the independence of the military courts. The military judge launched the proceedings, called for all the technical reports and authorized a second autopsy, which has been much discussed. Some people claim to know the contents and findings of this autopsy and are saying things which the autopsy clearly does not say. So the public are being deceived. I am not going to show you the entire autopsy report, but I shall allow you to read or photocopy its conclusions, which I shall read to you. These are the conclusions of the second autopsy, signed by five or six doctors. The findings of this second autopsy are, and I quote: "Cause of death: acute anaemia; asphyxial syndrome. Under the circumstances, and because this is a second autopsy, it is impossible to determine which of these conditions, or the lesions associated with them, was the ultimate cause of death".

In view of these facts, and following a long debate, the Extraordinary Meeting of the Federación Médica del Interior passed the following unanimous resolution (Minute No. 30, pp. 171-180, Volume I, and pp. 1-13, Volume II of Minutes of the Federación Médica del Interior):

In view of:
1) the death of our colleague Dr Vladimir Roslik, which occurred in publicly unknown circumstances;
2) the findings of the final autopsies and the declarations of the President of the Supreme Military Tribunal, which confirm that his death, which occurred in a military establishment, was caused by asphyxia and acute anaemia;
3) the statements made on the subject by Dr Saiz to the Executive Committee of AMEDRIN on 5 July 1984;

and considering:
1) that later events reveal a clear discrepancy between the findings of the first autopsy performed by Dr Saiz and the death certificate signed by him, which states the cause of death to be "cardiopulmonary arrest", "without signs of violence", and the final conclusions reached by the later autopsies and confirmed by the President of the Supreme Military Tribunal in his judgement;
2) that these conclusions – asphyxia and acute anaemia – are, in these circumstances, unequivocal signs of death caused by violence;
3) the declaration made by the Federación Médica del Interior on 26 April 1984, in which it clearly states its intention to examine the role played by members of the medical profession in these events;
4) that Drs Roslik and Saiz are members of the Asociación Médica de Río Negro and therefore members of the Federación Médica del Interior;
5) the absence of a code of ethics and the non-existence of a medical association responsible for enforcing such a code;
6) the need to examine these events and the role played in them by doctors, in accordance with moral and humanitarian laws and medical ethics, without prejudice to any legal proceedings which may be instigated;
7) the provisions of Article 2, Paragraphs A, C and E of its Articles of Association, which define the responsibility of the Federation for accomplishing its objectives;

the Extraordinary Meeting of the Federación Médica del Interior hereby resolves:

1) to ratify in full the declaration made by the Executive Committee on 26 April 1984;
2) to demand the precautionary suspension of Dr Saiz as a member of AMEDRIN;
3) to assign the investigation of the events to a tribunal consisting of doctors and lawyers of good repute and to request it to draft a report on the moral and ethical aspects of the said events;
4) to reiterate the vigilance of the Federation, which intends to determine and examine the participation and/or responsibility of members of the medical profession as regards physical oppression or any other form of torture;
5) to meet within no more than 60 days to consider the report of the appointed tribunal.

In Minas, on 30 July 1984, the Executive Committee of the Federación Médica del Interior resolved (Minute No. 54) to appoint Dr Rodolfo Canabal (lawyer) and Drs Tabaré Caputi and Gregorio Martirena (doctors) to form the Extraordinary Tribunal.

The Extraordinary Tribunal was set up in Montevideo on 2 August 1984.

Drs Gregorio Martirena, Tabaré Caputi and Rodolfo Canabal, appointed by the Executive Committee of the Federación Médica del Interior to form the Tribunal, with the task of examining the issues of medical ethics which might have been raised by the conduct of Dr Eduardo Saiz in the events connected with the death of Dr Vladimir Roslik, in accordance with the resolution passed by the General Meeting of the said Federation, held on 7 July 1984, hereby resolve:

1) to declare that the said Tribunal has been formed;
2) to proceed to gather the documents relating to the case, particularly:
   a) the report on the autopsy performed in Fray Bentos by Dr Eduardo Saiz;
   b) the report on the second autopsy performed in Paysandú;
3) information on samples taken for histological exami-
nation and the report of the Instituto Técnico Forense [Institute of Pathology] on these samples;
4) opinion of Drs José Mautone and Rodolfo Soiza on the results of the two autopsies and the histological report;
5) the statement of Dr Eduardo Saiz to the Executive Committee of AMEDRIN;
6) resolutions of the Executive Committee and Assembly of the Federación Médica del Interior in connection with this subject;
7) that once these documents have been obtained, the Tribunal will grant Dr Eduardo Saiz the right to inspect them so that he can formulate his defence; the documents relating to the case which have been gathered by the Tribunal and which will form the case dossier will be handed over to him for his perusal. The right of inspection shall be granted to Dr Saiz for a period of five set working days;
8) to meet when they have received the written statement of Dr Eduardo Saiz that he has completed his inspection or when the agreed period of inspection has expired, unless any of the members of the Tribunal present an adequate reason for meeting before this;
9) that the Tribunal assigns Dr Rodolfo Canabal the task of sending, in his name, to AMEDRIN and Dr Eduardo Saiz, the communications and documents required for compliance with that which has been agreed.

On 10 October 1984, when all the aforementioned documents had been obtained, 41 sheets of documentation were sent to Dr Eduardo Saiz, via AMEDRIN, so that he could make the appropriate depositions; these 41 sheets were received on 15 October, as certified on the reverse of Sheet 43 of the original dossier signed by Dr Saiz.

The Tribunal met to pass sentence on 23 October 1984 and presented its report to the Executive Committee of the Federación Médica del Interior.

Final statement of the Honourary Tribunal set up to examine the issues of medical ethics connected with the case of the death of Dr Vladimir Roslik:


In view of:
the actions taken in compliance with the task assigned to the Honourary Tribunal, set up by a resolution of the General Assembly of the Federación Médica del Interior on 7 July 1984, which was to examine the issues of medical ethics connected with the death of Dr Vladimir Roslik;

and considering that:
I. The Executive Committee of the Federación Médica del Interior resolved at its meeting of 30 July 1984, in accordance with the resolution passed by the aforementioned General Assembly, to set up the Honourary Tribunal, consisting of Drs Gregorio Martirena, Tabaré Caputi and Rodolfo Canabal, with the essential task of examining the conduct of Dr Eduardo Saiz Pedrini – a member of the Asociación Médica de Río Negro (AMEDRIN), which is affiliated to the Federación Médica del Interior – as regards the events connected with the death of Dr Vladimir Roslik, from the point of view of medical ethics.
II. The Tribunal was officially formed on 2 August 1984 and, at a meeting held on this date, resolved:
   a) to gather documentation on the case, particularly that relating to the autopsy performed by Dr Eduardo Saiz, the autopsy performed in Paysandú and to the samples taken for histological examination and the report of the Instituto Técnico Forense, the opinion of Drs José Mautone and Rodolfo Soiza on the results of the two autopsies and the histological report, the statement made by Dr Eduardo Saiz to the Executive Committee of AMEDRIN, and the resolutions of the Federación Médica del Interior [Executive Committee and Assembly];
   b) at the same meeting, it was resolved that, once the documents had been obtained, Dr Eduardo Saiz would be granted the right to inspect them for a period of five set working days to formulate his defence; it was decided that notification would be given via AMEDRIN, together with copies of the documents obtained;
   c) it was resolved that a meeting would be held once Dr Saiz had completed his inspection or on expiry of the inspection period;
   d) Dr Rodolfo Canabal was assigned the task of sending Dr Saiz the notification and documents, in accordance with that which had been agreed.

III. Photocopies were obtained of:
1) Minute of the resolution of the Executive Committee of the Federación Médica del Interior by which the Tribunal was appointed;
2) Memorandum of the Federación Médica del Interior, dated 5 September 1984, which notified AMEDRIN of the setting up of the Tribunal;
3) Statement made by the Federación Médica del Interior on 26 April 1984 regarding the death of Dr Vladimir Roslik;
4) Minute No. 30 of the Extraordinary General Meeting of the Federación Médica del Interior;
5) Note, dated 5 July 1984, sent by Dr Eduardo Saiz to the president of AMEDRIN, in which he asks to be received by the Executive Committee of the said body;
6) Minutes of the interview of 5 July 1984, which was granted to Dr Eduardo Saiz by AMEDRIN;
7) Resolution passed by the Federación Médica del Interior on 7 July 1984 regarding the death of Dr Vladimir Roslik;
8) Note from AMEDRIN to Dr Eduardo Saiz, informing him of the resolution passed by the said body on 12 July 1984 in accordance with the resolution passed by the Federación Médica del Interior;
9) Note from the Federación Médico del Interior to Dr Eduardo Saiz, informing him of the setting up of the Tribunal consisting of Drs Rodolfo Canabal, Tabaré Caputi and Gregorio Martirena;
10) Record, dated 25 April 1984 and signed by Drs Aníbal José Mojoli, Eduardo Laluz, FernandoBurjel, Adolfo Montaúban, Jorge Burjel, Gonzalo Zuasti and Eduardo Saiz, regarding the exhumation of the body of Dr Vladimir Roslik for the taking of some samples;
11) Note of 25 April 1984 in which Dr Mojoli informs Dr Fernando Burjel that he has been appointed to oversee the exhumation of the body of Dr Vladimir Roslik for the purpose described in the preceding point;
12) Report of Dr Fernando Burjel on the exhumation referred to in Point 10;
13) Notice of acknowledgement which notes authorization for the autopsy on the body of Dr Vladimir Roslik and the report of the autopsy performed by Dr Eduardo Saiz;
14) Report of the second autopsy on the body of Dr
Vladimir Roslik performed in Paysandú, signed by Drs Adolfo Montauban, Gonzalo Zuasti and Aníbal José Mojoli;

15) Examination of the autopsy notes of both autopsies, signed by Dr Eduardo Saiz Pedrini;
16) Report of Drs Montauban, Zuasti and Mojoli sent at the request of the Military Court which dealt with the case on some of the issues raised;
17) Report on the histological examination carried out by the Instituto Técnico Forense on samples taken from the body of Dr Vladimir Roslik, signed by Dr Carlos Pizarosa;
18) Resolution appointing Drs José Mautone and Rodolfo Soiza as the experts to draft a report on the causes of the death of Dr Vladimir Roslik: whether death was the result of a single cause or whether there were several determining factors; identification of the external and internal signs observed to verify the partial conclusion, accuracy of the connection between the signs ascertained and the declared cause of death, and any other consideration which, in the opinion of the experts, may serve to clarify events;
19) Report drafted by Drs José Mautone and Rodolfo Soiza. The documents relating to the autopsies, the extraction of samples, examination of the post-mortem signs, and the report of Drs Mautone and Soiza (Nos. 13 and 19) were received from the lawyer acting on behalf of Drs Mautone and Soiza (Nos. 13 and 19) were received from the lawyer acting on behalf of Dr Roslik’s widow and were included in his case dossier; the documents relating to the statement made by Dr Eduardo Saiz were received from AMEDRIN; photocopied of the certificate of 25 April 1984 (No.10), the note of 25 April 1984 (No.11) and the report of Dr Fernando Burjel (No. 12) were supplied by Dr Fernando Burjel.

IV. A letter and copies of the documents collected were sent to Dr Eduardo Saiz for his inspection; these were received by Dr Eduardo Saiz at 16.30 hrs on 15 October 1984, via AMEDRIN (see pp. 42/43 of the documentation).

V. Dr Eduardo Saiz did not exercise the right of inspection granted to him. The Tribunal was informed by the lawyer acting on behalf of Dr Eduardo Saiz that his client did not exercise this right on his own decision and also because, as a doctor employed by the army, he had received orders from his superiors not to exercise his right of inspection.

and whereas:

it is the Tribunal’s opinion that two fundamental points must be examined in order to determine the ethical aspects of the medical action taken by Dr Saiz in the case:

a) whether, by virtue of his activities within the military unit in which he performed his professional services, he could, during the period of Dr Roslik’s detention, have committed any of the offenses defined by international standards as regards medical activities in order to protect those who are subject to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment; 

b) examination of his conduct in performing the first autopsy on the body of Dr Roslik:

I. As regards the first point: it emerges from his statements that Dr Saiz examined Dr Roslik at 8.00 hrs, when he arrived at the unit, and that his condition was “good, there were no medical problems”; he saw him again at midday and saw him for a third time at 20.00 hrs; he said that it is not usual for a fit detainee to be seen by the unit’s doctor three times a day, but added that he was acting on orders; he said that the prisoner’s condition was good when he saw him for the last time at 20.00 hrs, that the prisoner did not say that he was being tortured and that he, Dr Saiz, was not present during the interrogation.

If we consider that Dr Saiz was ordered to examine the prisoner three times after he arrived at the unit, that this is not usual, that it is clear from the technical information obtained that Dr Roslik died at the unit within 24 hours of his arrival, that he died a violent death from multiple causes, then we may be led to believe that there was a breach of the principles of medical ethics which demand that medical personnel responsible for providing medical attention to prisoners or detainees “protect the physical and mental health of such persons”, and which forbid medical personnel to certify or participate in certifying that the prisoner or detainee is in a condition to be subjected to any form of treatment or punishment which may have a detrimental effect on his physical and mental health. Nevertheless, the Tribunal considers that such suppositions cannot be fully supported by the evidence in this case.

II. As regards the second point: on the other hand, it also emerges that the findings of the second autopsy, technically corroborated by the report of Dres Mautone and Soiza, do not concur with the record of the conclusions reached by Dr Saiz in the first autopsy, which:

a) does not record that Dr Roslik’s body showed signs of having been subjected to external physical violence, with corresponding internal signs;
b) nor mentions the existence in the bronchi of a liquid substance mixed with water, similar to the content of the stomach and deeply inhaled;
c) these two facts, which are not mentioned in the first autopsy report, are incompatible with the conclusion that the death occurred “without violence”.

In view of what emerges from a comparison of the said documents and conclusions, the Tribunal considers that, in performing the autopsy and writing the autopsy report, Dr Saiz failed to account for facts of fundamental importance in explaining the cause of death (which is the aim of an autopsy), which were revealed in the second autopsy. Consequently, as a medical expert, he violated an unavoidable ethical duty which obliges him to give a full and truthful account of any lesions the body may present and to make an exhaustive investigation into the causes of death. If we consider that the evidence of the second autopsy, corroborated by the technical report drafted by Drs Mautone and Soiza, points to a “violent death from multiple causes” and that this contradicts the conclusion of the first autopsy that the death occurred “without violence”, then the preceding conclusion is clearly confirmed.
The discrepancy between the two autopsies is clearly too large to be attributed to an error as a result of inadequate specialist knowledge.

For these reasons, the Tribunal, in compliance with the task assigned to it by the General Assembly of the Federación Médica del Interior, declares that the conduct of Dr Eduardo Saiz Pedrini as regards the events connected with the death of Dr Vladimir Roslik does not comply with the ethical principles which should govern his activities as a doctor.

On 27 October 1984, the Extraordinary General Meeting of the Federación Médica del Interior, which was held in Melo to hear the report of the Honourary Tribunal, resolved, by a unanimous decision of its members, and in accordance with its Articles of Association, to expel Dr Eduardo Saiz Pedrini from the Federación Médica del Interior. On 15 March 1985, the Comision Nacional de Etica Médica declared its approval and adoption of the judgement of the Honourary Tribunal of the Federación Médica del Interior.

The investigations of the Fifth Circuit Military Judge, Colonel Carmelo Bentancur, then turned to the prosecution of Lieutenant-Colonel Mario Olivera, Commander-in-Chief of Infantry Battalion No. 9, based in Fray Bentos, and his Deputy, Major Sergio Caubarrere.

At the time of writing, just three years after the death of Dr Vladimir Roslik, I feel compelled to state that the two military officers tried for his death have been in active service since early 1985, and that the dictatorship rewarded Dr Eduardo Saiz by giving him a job in the international forces which Uruguay has in Sinai for a period of two years, and that despite the fact that, by a resolution of the democratic Government, he was dismissed by the Ministry of Public Health, the Commander-in-Chief of the Uruguayan Armed Forces and President Dr Julio Maria Sanguinetti still employ him as a military doctor.

On 20 May 1986, the Federación Médica del Interior appeared before the Court of First Instance of Fray Bentos to launch legal proceedings to determine whether Dr Eduardo Saiz Pedrini had committed a crime.

According to the report of distinguished experts in criminal law, the conduct of Dr Eduardo Saiz Pedrini is open to possible criminal proceedings as, in relation to the homicide of Dr Roslik, he is responsible for:

a) failing to note the presence of multiple external signs of physical violence on the body of Dr Roslik;

b) failing to note the presence of a liquid substance mixed with water, similar to the content of the stomach, in the bronchi;

c) certifying that the victim's death was caused without violence;

In view of these omissions and this assertion, the judgement of Drs Mautone and Soiza was categorical in declaring the death to have been violent and the result of multiple causes. The conduct of Dr Saiz may be criminal on several counts:

1. Concealment of homicide (Article 197 of the Penal Code);
2. Falsification of a public certificate (Article 241);
3. Neglect of his duty as a civil servant to denounce crimes (Article 177 of the Penal Code).
Nelson Fornos Vera: military doctor in Artillery Group No. 2, based in Trinidad; director of the Hospital of Flores for several years during the dictatorship.

Between 12 March and 17 April 1985, eight former political prisoners appeared before the Comisión Nacional de Ética Médica to denounce the physical oppression, torture and maltreatment they suffered while they were held by Artillery Group No. 2 in Trinidad, where Dr Nelson Fornos Vera served as military doctor.

On 10 May 1984, the judges examining the indictment presented the following report to the Plenary Committee of the Comisión Nacional de Ética Médica:

To Dr Rodolfo Canabal, President of the Comisión Nacional de Ética Médica.

Dr Gregorio Martirena and Dr Enrique Echeverría, in their capacity as examining judges in the case put before them by this Commission with reference to the allegations against Dr Nelson Fornos Vera, File No. 1/985, hereby declare:

1) That the file indicates that the administrative personnel of this Commission have received eight allegations against Dr Nelson Fornos Vera from persons who were arrested by military personnel during the period 1972-77 and were all transferred, in the first instance, to Artillery Group No. 2 in Trinidad, in the Department of Flores.

2) That, according to the statements received, the accused was the only doctor serving in the aforementioned military unit and was also director of the Hospital of Flores.

3) That the deponents suffered all kinds of physical and psychological oppression (torture) and that many of them had recognized the accused on various occasions, before, during and after the aforementioned punishments because they lived in the area or because they had been examined by him on arriving at the aforementioned military base.

4) It clearly emerges from the allegations that the accused was fully aware that detainees in the said military base were being tortured, because he was the only doctor serving in the said Artillery Group No. 2 and was present in person when all types of torture were being used against detainees by military officers and auxiliary personnel, and during interrogations.

5) The aforementioned statements support this assertion; for example:

On Sheet 1, a deponent states that, when he was subjected to the submarino — a form of torture which consists of submerging the person’s head, hooded, in water — for an entire night, he was aware that his condition was being checked by the application of a stethoscope to his chest, and that, when they removed the hood to turn their attention to a “meeting” with another detainee, he saw the aforementioned Dr Fornos among the group of interrogators, together with other officers of the said military unit.

On Sheet 2, another deponent claims that, before being tortured, he was examined by Dr Fornos, whom the witness (or accuser) saw because he was not, at that time, hooded, and who merely checked his weight. He also states that, during torture sessions (submarino), he noted that somebody was checking his body temperature by making physical contact with his arm, though without using a thermometer. The deponent presumes that this person was Dr Fornos, who was the only doctor serving at the said military base. He also declares that, when he was undergoing this same torture, somebody said from time to time that “you can really give it to this one, he’s got an iron constitution”, and that he was never given any medical attention after the torture sessions.

On Sheets 4 and 5, another deponent states among other things that, when he was hooded and being tortured (again the submarino), somebody placed a stethoscope against his chest and an object “like a small clamp” around his arm. He adds that, during one of these sessions, when he was handcuffed and hooded, he slipped and fell when he was released from the submarino, hitting his forehead so hard on the floor that a huge haematoma developed, which spread to his face. He states that he was given no medical attention and that they continued with the torture, leaving him in a state of hallucination, almost on the edge of insanity, hurling himself to the floor and rolling about, screaming for a doctor. The doctor arrived shortly after, removed the hood and saw his condition and the haematoma; he saw Dr Fornos Vera, who weighed him and found that he had lost 5 kilos since his arrival and that his blood pressure was much higher than normal. He claims that the said doctor made no comment on the severe haematomas on his face and merely prescribed something for him to take during the night, possibly a sedative. He states that two months later he was called by the said Dr Fornos so that the doctor could compile his medical record.

On Sheet 7, another deponent states that, when he arrived at the aforementioned camp, he was subjected to the plantón and that when, after several hours, they removed the hood and allowed him to sit down, he found himself before Dr Fornos, who he already knew as they both lived in Trinidad and because the said
In view of the fact that the task of the undersigned is to assess the ethical conduct of the doctor, it was summoned by the aforementioned military unit and forced to sign a document stating that he had received correct medical attention during his stay in the aforementioned military base; this procedure was repeated on the other occasions on which he was released. The deponent states that, during his final period of imprisonment, he was examined by Dr Fornos and subjected to very severe physical oppression for twenty-one days; that he was subjected to the submarino, tied to a board which was submerged in a tank of water, that a hood was placed over his head and held in place with a piece of elastic and that each of his wrists was connected to a wire which served as a pole for the electric shock applied after a very long period of submersion which left him in a very bad condition; at that moment, he felt something cold and metallic on his chest and immediately afterwards heard the voice of Dr Fornos, saying “he’s perfectly alright”. In another case, a deponent states that when Dr Fornos was performing a medical examination on another prisoner, he took his blood pressure, said that it was high and ordered his assistant to write “gentle treatment”. This was witnessed by the deponent.

6) The examining judges asked the Administrative Board of the Commission to summon the accused to come forward to give his evidence. He was summoned twice by recorded telegram (the receipts are contained in the case file, Sheets 11 and 15), on 18 March 1985 and 9 April 1985; the accused did not come forward nor was any response to these summons received from him or any third party.

7) In view of the fact that the task of the undersigned examining judges, in their capacity as doctor and lawyer respectively, is to assess the ethical conduct of the accused on the basis of the aforementioned material, and to observe a procedure which offers maximum guarantees to the aforementioned doctor, and in view of the fact that the said doctor has failed to come forward although he has been summoned twice by reliable means, the judges hereby present the following conclusions to the President of the Commission:

A) Dr Nelson Fornos Vera committed several violations defined by international standards as regards medical activities in order to protect those who are subjected to any form of arrest or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment.

B) The aforementioned doctor failed to report aberrant acts against the human person, thus violating an unavoidable ethical duty which obliges him to give a full and truthful account of any lesions which a detainee may present.

C) In accordance with the statements contained in this case file, the signatories believe that there was evident complicity in the physical oppression of detainees on the part of the accused, as several statements have established that Dr Fornos participated, in his capacity as a doctor, in the said illegal oppression and, in violation of the most fundamental principles of medical ethics, participated directly in situations in which mental and physical violence were used against defenceless detainees, in a military establishment, being, furthermore, the only doctor serving in the said military unit.

D) The ethical conduct of the accused Dr Fornos involves several of the violations described in UN Resolution A/RES/17/194 of the 9 March 1983 and its Annex, which contains the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners or detainees against torture and other cruel, inhuman or degrading treatment or punishment, approved on 19 December 1982.

On 4 June 1985, a meeting of the Plenary Committee of the Comisión Nacional de Ética Médica unanimously resolved to adopt the report of the examining judges and to notify the doctor concerned of this decision, for which purpose the Commission would summons him by recorded telegram, granting him a period of seventy-two hours to come forward; once this period had expired, the report would be presented to the Gremio Médico.

In August 1985, the General Assembly of the Federación Médica del Interior passed a unanimous decision to expel Dr Nelson Fornos Vera from the Federation, of which he was a member by virtue of his membership of the Asociación Médica Departamental de Flores [Medical Association of the Department of Flores], and to launch the appropriate criminal proceedings; the case was brought before the Court of First Instance of Trinidad on 22 May 1986.

On 23 September 1985, the Arbitration Tribunal of the Sindicato Médico del Uruguay adopted the report of the Comisión Nacional de Ética Médica and declared its decision to adopt the resolution of the Federación Médica del Interior to bring the case before the criminal courts.

The evidence was examined by reputable lawyers at the request of the Federación Médica del Interior in order to determine the content of the case to be brought before the criminal courts; the lawyers' report reads as follows:

Dr Nelson Fornos Vera, doctor serving in Artillery Group No. 2 (Flores), is accused by several persons held by that military unit of having participated in all kinds of torture which they had to suffer (the submarino, beatings, electric shock), by “giving them medical assistance” consisting of stethoscope sounding (?) during the said torture. Logically, this assistance was offered with a view to continuing the torture without risking the victims’ lives rather than to protect their health.

This conduct implies several possible crimes:

1) abuse of authority as regards detainees (Article 286);
2) gratuitous violence (Article 288);
3) personal injury (physiological disturbance leading to physical or mental injury) (Article 316; the specific provisions of Article 320 render this an even more serious crime).

In all these cases, the doctor would be liable as a co-author for his direct co-operation at the time when the crimes were committed.

In other actions punishable under criminal law, however, he would be liable as author; these actions are:
4) neglect of his duty as a civil servant to report crimes (Article 177);
5) concealment (Article 197).

Dr Nelson Fornos Vera, legally represented by Dr Adolfo Gelsi Bidart (Dean of the Faculty of Law), later made a written statement to the Asociación Médica Departamental de Flores, asking for his expulsion from membership to be revoked:

To the President of the Asociación Médica Departamental de Flores.

Nelson Fornos Vera, resident at Alfredo Puig 568, Flores, hereby declares to the President that:

He hereby requests that the Executive Committee of which he is President propose to the General Assembly that the resolved expulsion be revoked, for the following reasons.

The said expulsion was based on the conclusions of a Tribunal of Medical Ethics, which did nothing more than examine the allegations made by various persons, without any other proof of my supposed culpability and without granting me the opportunity to defend myself.

It is a fundamental principle of human rights that any person is innocent until proved guilty and the right to defence is also a universally recognized human right. An allegation cannot in any way be confused with evidence.

As the Sindicato Médico del Uruguay rightly stated (Section No. 14, Volume 43, 23/VI/1972) as regards a homicide committed by a member of the medical profession, “under human rights, the legal truth rests solely on legal evidence”, and thus a judgement may be passed by the profession only when a final legal judgement has been reached.

Hence, if this Association believes that I have committed a crime, it must bring the case before the criminal courts and abide by their findings.

If the Association fails to make a statement to this effect, I shall be obliged to take legal proceedings to obtain my reinstatement as a member and compensation for the moral and material damages suffered by me as a result of the aforementioned decision.

I therefore ask the President and Executive Committee to make a statement on the aforementioned issue, to propose to the General Assembly that the resolution be revoked and that I be reinstated as a member, and to inform me immediately of the decision adopted in this regard.
Vladimir Bracco

Vladimir Bracco: military doctor serving in Infantry Battalion No. 6, based in San José.

On 1 July 1985, the judges examining the case presented the following report to the Plenary Committee of the Comisión Nacional de Ética Médica:

To Dr Rodolfo Canabal, President of the Comisión Nacional de Ética Médica.

Dr Héctor Fontes and Dr Enrique Echeverría, in their capacity as doctor and lawyer respectively, acting as the examining judges in the case brought before this Commission with reference to the accused Dr Vladimir Bracco, File No. 11/85, hereby declare to the President that:

1) It emerges from the file in question that the administrative personnel of this Commission have received four allegations against the aforementioned accused from persons who were arrested by military personnel in mid-1980 and transferred to Infantry Battalion No. 6 in the Department of San José.

2) The accused was the doctor of the said military unit and was also a member of the Asociación Médica de San José (San José Medical Association).

3) The deponents state that they suffered all kinds of physical and psychological oppression (torture); many of them recognized the accused on several occasions before and after being tortured because they lived in the area and knew him as a consultant of the Asociación Médica de San José.

4) It clearly emerges from the statements that the aforementioned accused doctor was fully aware that detainees in the said military base were being tortured, as he examined them when they arrived at the said military unit and during and after the said physical oppression. The said doctor examined hooded detainees in the presence of their torturers.

5) The aforementioned statements support this assertion; for example: On Sheet 1, Francisco Alza, 80, a resident of San José, who was arrested, together with his wife, Blanca Seijas de Alza, and daughter, Annabella Alza, by military personnel belonging to Infantry Battalion No. 6, states that 22 hours after his arrest he was taken to the sick bay, where he was examined by Dr Vladimir Bracco. He told the doctor that "his heart was not too good as he had suffered a heart attack". Dr Bracco replied, in the presence of military personnel (the torturers), that he "had a stronger heart than the rest of us". The accused thus gave the go ahead for torture and the deponent was subjected to the plantón – he had to stand facing a wall, with his feet as wide apart as possible - and was also suspended, with his arms tied behind his back, and given electric shocks, etc. This continued for twelve days, without his seeing the accused Dr Bracco again; he was then released.

Sheets 2, 3 and 4 contain the statements of the preceding deponent’s daughter, Annabella Alza Seijas, 39, also resident in San José. She states that she was arrested with her father and mother on 22 June 1980 and was transferred to Infantry Battalion No. 6. Before being interrogated, she was taken, hooded, to a building in the same base for a medical examination; the doctor told her not to worry, that he was a doctor and that he had to ask her a few questions. The deponent recognized the accused doctor immediately by his voice “and because, as I was lying on the couch, the hood lifted a little and I could see him”. She was then subjected to severe interrogations, during which she had to stand, hooded, the entire time, beginning on 23 June 1980 and lasting until 23.00 hrs on the day she was released; she was given absolutely nothing to eat during that period.

The deponent states that, on the following day, as she was very worried about her parents, who were still being held by the said military unit, she took advantage of the fact that Dr Vladimir Bracco was a consultant at the Asociación Médica de San José and went there with her two-year-old sister, on the pretext that she needed to consult a paediatrician. She told the accused that her parents were among the hooded detainees he had examined on the Sunday night. She gave him a photocopy of a medical certificate issued by Dr Chapper – the original had already been delivered to Battalion No. 6 – noting the serious circulatory problems suffered by her mother and advising careful treatment. She told him that her father had suffered a heart attack some time ago. She states that she asked Dr Bracco if her father had told him about this and that he said that he had not. This was a lie, as she later learned from her father that he had told the doctor about his heart attack. She asked the accused to take account of the physical condition and advanced age of both her parents; he told her not to worry, that he would take this into account. She learned that her mother and father were nonetheless tortured without any such consideration after the interview described above.

Sheets 5-8 inclusive contain the statements of another woman, Zulma Marichal González, who was arrested and transferred to Infantry Battalion No. 6 in San José on 22 June 1980. She was examined by Dr Vladimir Bracco, who asked her if she suffered from any medical complaints. The deponent told him...
that she had a slipped disc, which had been diagnosed by Dr Carlos Adolfo Lea Plaza. Following this examination, she was subjected to all kinds of physical oppression for twelve days. She was subjected to the torture known as the *caballo de hierro* [iron horse] and electric shock. After suffering repeated tortures, she asked for a doctor. Somebody who said he was a doctor came and examined her. Then they continued torturing her, subjecting her to the *submarino*.

6) The examining judges asked the Administrative Board of the Commission to summon the accused to come forward to give his evidence. He was summoned twice by recorded telegram (the receipts are contained in the case file, Sheets 9 and 11); the accused did not come forward nor was any response to these summons received from him or from any third party.

7) In view of the fact that the task of the undersigned examining judges is to assess the ethical conduct of the accused on the basis of the aforementioned material, and to observe a procedure which offers maximum guarantees to the aforementioned doctor, and in view of the fact that the accused has not come forward although he has been summoned twice by reliable means, the judges hereby present following conclusions to the President of the Commission:

A) Dr Vladimir Bracco committed several violations defined by international standards as regards medical activities in order to protect those who are subjected to any form of arrest or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment.

B) The accused doctor failed to report aberrant acts against the human person, thus violating an unavoidable ethical duty which obliges him to give a full and truthful account of any lesions a detainee may present.

C) There was also evident complicity in the physical oppression of detainees on the part of the accused, who, in violation of the most fundamental principles of medical ethics, participated directly in using physical and mental violence against defenceless, hooded detainees on military premises.

D) The ethical conduct of Dr Vladimir Branco undoubtedly involves several of the violations described in UN Resolution A/RES/17194 of 9 March 1983 and its Annex, which contains the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners or detainees against torture and other cruel or degrading treatment or punishment, approved on 19 December 1982.

On 30 July 1985, the Plenary Committee of the Comisión Nacional de Ética Médica adopted the report of the examining judges and presented it to the Sindicato Médico del Uruguay and the Federación Médica del Interior.

In August 1985, the General Assembly of the Federación Médica del Interior passed a unanimous decision to expel Dr Vladimir Bracco from the Federation, of which he was a member by virtue of his membership of the Asociación Médica de San José. On 23 September 1985, the Arbitration Tribunal of the Sindicato Médico del Uruguay adopted the resolution of the Comisión Nacional de Ética Médica and expelled him from membership.
On 26 August 1986, the Comisión Nacional de Ética Médica presented the evidence and conclusions relating to the case of Dr Hugo Díaz Agrelo to the Federación Médica del Interior so that the Federation could pass the appropriate resolutions.

12 August 1986.

In view of:
the actions taken by the Comisión de Ética Médica as regards the case relating to the conduct of Dr Hugo Díaz Agrelo;

and considering that:
1) Sheets 1-20 contain the statements made to this Commission on 26 March and 9 and 22 April 1985 by ten women who were arrested on 12 and 13 April 1975 and imprisoned in the Women's Prison of Military Zone No. 4 in Treinta y Tres; at the time, these women were aged between 13 and 18 and were subjected to a gynaecological examination by Dr Díaz Agrelo, who was the military doctor there and director of the Hospital of Treinta y Tres.
2) The deponents, who were secondary-school pupils and members of the UJC (Unión de Juventud Comunista) [Union of Young Communists], had attended a youth camp at La Esmeralda beach in the Department of Rocha in February of that year. The deponents give an account of the examination to which they were subjected and all state that the actions and comments of the accused doctor were degrading, as emerges from the statements contained in the case file, Sheets 3 et seq (see Point 3 of Sheet 35).
   Two women, who were of age at the time of the events – one of them being the mother of two of the victims – have also made statements corroborating what the girls have said regarding the conduct of the accused doctor.
3) To Sheet 21 is attached a photocopy of page 15 of the newspaper La Mañana, in which the minors who had been imprisoned at the military base are accused of having been extremely promiscuous when they were staying in the area of La Esmeralda, of vying with each other in competitions of a sexual nature, of living in an atmosphere in which not only moral values, but also the most basic rules of sexual hygiene had been largely swept aside, so that five young girls, whose ages ranged between 14 and 17, contracted sexual diseases.
4) Summoned by recorded telegram (Sheets 22-28), Dr Díaz Agrelo came forward to make a statement to the Commission (Sheets 29-31). He denies the accusations and states that the examination performed consisted of an inspection of the vulva only, that he had behaved correctly and that, in about eight of the patients, he had found signs of venereal disease, for which he began a course of weekly injections containing 2,400,000 units of benzylpenicillin.
5) On the basis of the aforementioned statements, the examining judges reached the conclusion (Sheet 35 et seq) that the accused had volunteered to perform the examinations to give credibility to the accusation that the minors were guilty of sexual promiscuity and that his conduct was incorrect from the medical point of view, indicating the ethical rules that had been violated.
6) Dr Díaz Agrelo was granted the right to inspect all the material gathered; in his statement following this inspection (Sheet 41), he claims that, since it is not the doctor who decides where minors are to be held, the examination and treatment of minors can have no relevance from an ethical point of view; he states that there is no evidence of the alleged misconduct nor the violation of ethical rules and that, although it is evident that his actions and the measures taken were used to fuel the newspaper report, the allegation against him would be valid only if he had been aware of the way in which his medical actions were to be used.

and considering that:
1) It emerges from the aforementioned statements that there was some inaccuracy as regards what Dr Díaz Agrelo meant by venereal disease. Venereal diseases are, basically, syphilis, gonorrhoea, chancroid, lymphogranuloma venereum, but there are also others, such as trichomoniasis, genital herpes, mycoplasma, etc.
   Of all these, syphilis is the only disease which is treated with penicillin V, following laboratory diagnosis, which can be performed in any public hospital using the VDRL test. Dr Díaz Agrelo did not perform the VDRL test; in most of the cases, he treated the disease without having diagnosed it and therefore without being sure that the detainees had syphilis.
   Nor, if he thought the girls were suffering from another disease, did he make a diagnosis, which requires a laboratory test. Dr Díaz Agrelo cannot be unaware of the fact that no venereal disease can be diagnosed by an inspection of the vulva. As we have already pointed out, if the aforementioned diseases were present, the treatment applied was incorrect, because, although gonorrhoea can be treated with penicillin, it would have to be in a form other than the one prescribed, and because benzylpenicillin is not known to have any effect against other venereal diseases.
2) Dr Díaz Agrelo acted extremely incorrectly from a medical point of view, in that:
a) he drew conclusions from an incorrect gynaecological examination which was not supported by any of the laboratory tests which are essential for diagnosing venereal diseases;
b) he prescribed treatment for “suspected” disease, when such treatment can be justified only when a disease has been definitely diagnosed, particularly in such cases, where incorrect treatment may have serious consequences – if the patient is really suffering from a serious disease – both for the patient and her children;
c) the treatment given – which he should not have prescribed on the basis of mere suspicion, nor as “a trial of treatment” – was incorrect.

3) Dr Dias Agrelo’s extensive experience is incompatible with the medical errors committed, which are all the more serious in that the victims were minors being held by the army. His depositions are rejected because his own statements to the examining judges, and particularly the statements made by the many victims, clearly suggest that the examinations he performed were degrading parodies to support the unfounded accusations of the General Command of the Army against the victims, who were also rejected by some sections of the community of Treinta y Tres and some of whom were forced to leave their home town as a result.

4) The conduct of Dr Dias Agrelo violated the following ethical rules in particular:
a) The rule laid down by the International Code of Medical Ethics, which states that “a physician shall, in all types of medical practice, be dedicated to providing competent medical service in full technical and moral independence, with compassion and respect for human dignity”.
b) Article 4 of the Declaration of Tokyo of 1975, which states that “a doctor must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The doctor’s fundamental role is to alleviate the distress of his or her fellow men, and no motive whether personal, collective or political shall prevail against this higher purpose”.
c) Principle 1 of the Principles of Medical Ethics, adopted by the General Assembly of the United Nations in December 1982, which states that “health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as afforded to those who are not imprisoned or detained.”
d) Principle 3 of the aforementioned Principles of Medical Ethics, which states that “it is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health”.

For these reasons, and in accordance with the ethical rules cited above, the Comisión Nacional de Ética Médica hereby declares that the conduct of Dr Hugo Dias Agrelo was in violation of the ethical principles which govern his activities as a doctor.

On 3 September 1986, the Comisión Nacional de Ética Médica presented this ethical ruling to the Sindicato Médico del Uruguay and the Federación Médica del Interior. Issue No. 21, January/February 1987, of the newsletter Noticias produced by the Sindicato Médico del Uruguay (SMU), contains (pp. 4-5) the resolution of the Arbitration Tribunal to expel Dr Hugo Dias Agrelo from membership of the SMU. It is clear from the case file quoted above that Commander Cruz, Commander-in-Chief of the Military Base of Treinta y Tres, was involved in the maltreatment and torture of detainees, and in the frequent threats they received while they were held in Women’s Quarters No. 1, Yaguarón 1617, from Colonel Elbio Camps, who was the military judge hearing their cases.
Considering that:

I. In this case, allegations have been made by engineer José Luis Massera, Sheets 4-5 (treatment for a fungal disorder despite the fact that the deponent stated that he knew nothing about it); Dr Armando Matos Vezzoli, Sheets 7-8 (failure to provide treatment to prisoner Carlos Chassale in Artillery Regiment No. 5); failure to treat numerous prisoners in this regiment who were suffering serious after-effects of torture suffered in other prisons); Ana María Pieri, Sheets 10-12 (failure to provide assistance to Hilda Delacroix and Selva Aranzadi; indifference to her own condition when she was examined and bore clear signs of having been tortured in the prison where she had been before being transferred to the said Cavalry Regiment No. 5); Perla Cohanoff, Sheets 15-20 (failure to provide assistance to Ana María González Pieri, despite the suggestions regarding her symptoms which she gave him in her capacity as a medical student); Juan José Ormaechea, Sheet 21 (failure to provide assistance to his wife, Hilda Delacroix, who was held by Artillery Regiment No. 5 and died of cancer in the Central Hospital of the Armed Forces); Liber Mandressi Manfrini, Sheets 27-29 (failure to provide assistance to prisoner C. Chassale and general failure to monitor the progress of people held in the barracks of the aforementioned Regiment No. 5 who required medical assistance); Gustavo Marcos Ormaechea Delacroix, Sheet 33 (on the deterioration of the condition of his mother while she was held by Artillery Regiment No. 5); Ernesto Ormaechea Delacroix, Sheet 34 (on the deterioration of the health of his mother while she was held by Artillery Regiment No.5).

II. Having accepted the allegations, the Plenary Committee of the Commission appointed Drs Álvaro Yañez and Rodolfo Canabal as the examining judges; Dr Luis Falconi was later appointed as a third examining judge.

III. The following additions were made to the case file – Sheets 37-41: unsigned photocopies of statements made to Amnesty International by Irma Leites, Gloria Labanca, Delia Solsona and María Elena Curbelo; Sheets 21-23: unsigned photocopies of statements made regarding Carlos Chassale.

IV. Statements from the following were received on request: María Elena Curbelo de Mirza (Sheets 52-53, accusing Dr Marabotto of failing to provide assistance to Raquel Culnev and Delia Delacroix); Irma Leites (Sheets 54-61, accusing Dr Marabotto of improper activities in Military Prison No. 2, because he had failed to provide assistance to Ana María González Pieri, Clarisa Bonilla, Irma Leites herself, Griselda Castellani and Graciela Darré); Jessie Macchi (Sheets 62-63, accusing Dr Marabotto of having withdrawn most of the exemptions from work granted to the prisoners, despite their age and state of health, and of denying special medical diets to most of the prisoners when Lieutenant Colonel Maurente became Director of Military Prison No. 2).

V. The accused Dr Nelson Marabotto was summoned to make a statement; his statement to examining judges Drs Falconi and Canabal appears on Sheets 93-102; the aforementioned allegations concerning his professional conduct as a doctor in Artillery Regiment No. 5 and Military Prison No. 2 were read to him; Dr Marabotto claims that the statements made by engineer José Luis Massera are false, that he was given correct medical attention and that he was treated in a manner befitting his age and professional status as a prestigious international figure, and that he had never personally complained about the way in which he was treated nor the medical attention he was given; as regards the Chassale case, allegations regarding which were made by Drs Matos Vezzoli, Sacchi and Mandressi, he claims that he remembers the case well and that the allegations are false, that Carlos Chassale was given suitable treatment, that he was examined by the oncologist, Dr Glacios, and was treated according to his instructions; that, given the nature of the patient’s complaint, steps were taken to secure his release, which was granted in early July 1976, after which the patient left the country; he claims that the statement made on the radio by Dr Sacchi, in which he stated that the death of Carlos Chassale three years later was a result of the lack of treatment provided while he was held by Artillery Regiment No. 5, was false; as regards the case of Ana María González Pieri, he claims that he is unjustly accused, although he understands her mother’s grief; the work performed by the women was not in fact compulsory and consisted of work around the property, gardening and work in the kitchens; he received a warning.
about her health from Dr Marsicano and sent her to the Military Hospital, where it was discovered that Dr Marsicano was right; as she appeared at first to be suffering from slight anemia, she was given medication and told to stay in bed and was, therefore, examined there in the military base; the doctor saw her every day for the next few days and she was sent to hospital on 29 April 1976 by Dr Marsicano, who came especially to see her; two or three days after the deponent had seen the patient, her condition had improved; then the fever returned, the symptoms were recognized by Dr Marsicano, who correctly ordered her hospitalization; the deponent saw the patient only once during this period and she was not in a serious condition, possibly because he saw her when her condition had improved; he asked Dr Marsicano to attend to the patient as she had greater knowledge in this field; she spent several days at the Military Hospital, in the intensive care unit, and died there; the prison doctors had nothing to do with her treatment while she was at the hospital; the deponent states that Perla Cahannoiff’s claim that she had spoken to him about the patient’s medical condition is false; neither did any of the other prisoners, which means that they are lying, or else the diagnosis was kept secret, at the direct expense of their colleague. It was possible for seriously ill patients to be treated at the prison but this was never done; in such cases, patients were sent to the Military Hospital, Hilda Delacroix was first seen by the deponent when she was suffering from diarrhoea, which did not seem to be severe; the patient had suffered from chronic diarrhoea for many years before she was arrested, following a series of operations; diarrhoea was also a fairly regular complaint among the prison population, for various obvious reasons (emotional stress, change of diet, etc); the symptom was treated but, as the diarrhoea continued for an unusually long period, the deponent sent her to the Military Hospital; she returned to the unit when she was discharged from the hospital and returned to the deponent with the same complaint; her general condition began to deteriorate and the deponent told her that he would send her back to the hospital; however, the patient asked him if he would refrain from doing so for a while as she was depressed and felt better when she was with her friends (he was not asked for written evidence of this). Nonetheless, as the diarrhoea, which never contained blood, continued and her general condition worsened, she was once again sent into hospital, one and a half months after the first hospitalization; the deponent had nothing to do with the patient after that; he knows that she died, that she had an operation and was found to have cancer starting in the pelvis and spreading to the peritoneum, and that biopsy showed a well differentiated carcinoma, which explains the rapid worsening of her condition despite the correct medical attention she was given; the statements of Dr Mundressi are all completely untrue and the deponent does not believe that the said accused has any right to accuse him, since he himself was accused of serious ethical misconduct and since public documents claim that he formed the clandestine health unit of a certain political party, recruiting colleagues to form it and threatening them with death when they said they wanted to leave the said health unit. When asked about the other allegations made against him, he claims that they are all false, that many are distortions of the truth and that others are downright lies; the deponent is fully convinced that his conduct as a doctor complied with the strictest ethical rules. It should not be forgotten that he was acting in unusual circumstances with limitations and drawbacks which were not the fault of military doctors, nor was the deponent in a position to alter them. When the first civilians were arrested and imprisoned by the Armed Forces, his reaction was to consider the arguments put to him by prisoners as to why they should be exempted from work duties (their hair was cropped and they were woken at five or six in the morning for military physical education); in all circumstances, this was the attitude he adopted towards all political prisoners; as a result of the period he spent working in the prison of Punta de Rieles, he was entrusted with the task of organizing the health service in the best way possible; he might not have achieved this, but it was always his dauntless determination to do so. None of the visits made by the International Red Cross – with private interviews with prisoners to monitor the health service, and with doctors, and with access to all documentation – gave rise to any objections regarding the technical and ethical conduct of prison doctors. Members of the International Red Cross always praised the health service and all the official reports that the deponent had seen had stated that the medical attention given was efficient, adequate and correct. When asked about the limitations and drawbacks outside the control of military doctors and about their ability to alter them, he states that it is quite obvious that detained civilians are not given medical attention in normal, everyday circumstances; the units in which military doctors had to work were not suitable for housing the large number of people imprisoned at that time; the doctor was not in a position to control prisoners’ living conditions or diet or the type of food they ate; nor was there a normal doctor/patient relationship in which the patient seeks the help of the doctor and co-operates with him; it was a question of forcing medical attention on people who without a doubt saw the doctor as an enemy; the doctor could not impose his own criteria; what the doctor wants quite clearly is that he should never be forced to perform a medical action contrary to his beliefs or his loyal knowledge and understanding from the technical and ethical point of view; he always tried to act as correctly as possible in this regard and, if at any time he failed to do so, it could have been through an involuntary error such as any other doctor may commit, but never deliberately; the doctor was not responsible for these limitations. The function of the military doctor in any country and under any political regime is to give technical advice to his commanding officer, who is ultimately responsible for what is or is not done in his unit, the doctor is “a member of the commanding officer’s staff”; his medical adviser. Asked whether this meant that a prescription made by the doctor could be ignored on the orders of the military command, he replied that, in principle, this could happen but that in practice, and in his own experience, a medical instruction was never ignored by the commanding officer; that his instructions were considered and that the fact that he was a doctor was taken into account. When asked about the statement made by some of the
deponents that, when he was serving as a doctor in Artillery Group No. 5, many prisoners, both men and women, who had been transferred from other units had obviously been tortured and were recovering from their experiences, and that, as the unit's doctor, he came into contact with all these cases, he completely denied having ever, in Artillery Group No. 5 or anywhere else, attended prisoners who showed any signs of having been physically tortured; as regards the specific case of Selva Braselli, he categorically refutes her statement; he would have remembered the case for its truly horrific nature and because she was the sister of somebody he knew. When asked to clarify the situation as regards the massive withdrawal of exemptions from work at a certain time in Military Prison No. 2, he replied that he could not remember exactly what happened when Lieutenant Colonel Maurente became director but that, as regards the general issue of exemptions from certain types of work on medical grounds, he could affirm that it was always the policy of the health service to be very generous in granting exemptions; certainly exemptions were sometimes withdrawn, essentially in those cases where they were less justifiable, but of course exemptions were reinstated at the slightest complaint of the prisoners concerned; this was why it was finally decided to abolish the obligation to perform certain types of work such as, for example, work around the property. When he had finished giving his evidence, Dr Marabotto gave the examining judges a file containing 150 photocopies; those up to Sheet 128 contain information regarding the medical histories of the cases concerned; there are also photocopies of a press release issued on 7 February 1976 by the United Armed Forces, a memorandum of the Sindicato Médico del Uruguay dated 23 June 1972, a minute of the Council of the Faculty of Medicine dated 13 June 1985, various press cuttings (Sheets 136-142 and 146-150) and a publication of the Committee for the Protection of Human Rights in Uruguay, Toronto, Canada, dated 10 July 1984 (Sheets 143-145). He suggested that statements be requested from Dr Roberto Rubio, as a personal and professional reference, and Dr José Pedro Cirillo, describing the impression he received of the doctor from his nephew, Captain Cirillo, who is a friend of the deponent and had served with him for a while.

VI. A statement was received from Dr Roberto Rubio (Sheets 106-107) who, when asked in accordance with Dr Marabotto's request, stated as follows:

when I was Professor of Surgical Clinic A, a post which I held from 1 August 1971 to 9 August 1979, I believe that, in 1977, the head of the Office of the Faculty of Medicine appointed Dr Nelson Marabotto as a locum in the general clinic of which I was director; it was there that I met him; he was with us for about two years, I think, and I had the opportunity to get to know him as I went down to see patients at the general clinic between 9.00 hrs and 11.00 hrs on Fridays (the clinic was on the first floor and my office was on the ninth). My impression of Dr Marabotto, which I believe was shared by the other members of the clinic, was that he was a competent and reliable doctor who had a good general medical training and got on well with his colleagues and staff in the Infirmary, Library, etc. I knew that Dr Marabotto, like other doctors who were given temporary posts by the Dean during that entire period, was employed by the Military Health Service, but I did not know where he was posted. A doctor's work in the general clinic, particularly for those who know about medical work and how a faculty clinic works, is performed there in the general clinic and there is no real professional integration with other members of the surgical clinic. I would like to stress that Dr Marabotto always performed his tasks in my clinic with the utmost care and precision. I did not see him for several years after I left the Faculty of Medicine in August 1979. I bumped into him at the Seventh Medical Convention in 1984; he greeted me and moaned to me that he would never have expected it of a weekly magazine of which I was one of the directors – La Democracia. An article had just then appeared in which a La Democracia journalist, doing a news item on several people held at the prison of Punta de Rieles, referred to Dr Marabotto and blamed him to a certain extent for some of the things going on there; I told him quite truthfully that, as a director of La Democracia, I knew about the item but that I had not read it before it appeared and only learned subsequently of the references to him.

A statement was also obtained from Dr José Pedro Cirillo (Sheet 108) regarding the impression he received of Dr Marabotto from his nephew, Captain Cirillo; he stated that:

I did not receive any impression as I never discussed Dr Marabotto with my nephew, Captain Cirillo; I did not even know that Dr Marabotto and my nephew had known each other.

VII. The deponent Armando Mattos Vezzoli was asked to make a fuller statement (Sheet 114); he states that, while he was held by Artillery Group No. 5, there were about a hundred prisoners there who had been tortured; the forms of torture used had been the colgada, the picana eléctrica and the submarino, as well as the caballet; the typical effect of the colgada was wasting of the muscles of the shoulder, arm, forearm and hand as a result of stretching of the nerves of the brachial plexus, as well as numbness of the hands owing to the way in which the fists were tied with leather straps, wire, rope or even electric cable; the victim was then hung by the hands from a railing or some other fairly high point, causing the binding to make deep wounds in the fists. As regards Dr Marabotto's conduct in these cases, the deponent states that the doctor examined them on their arrival, but ignored the prisoners' claims that they had been tortured; the examinations were superficial. When asked about the quality and frequency of the attention provided by Dr Marabotto, he states that the doctor did not attend his patients in person but rather through the intermediary of a nurse, who saw the prisoners almost every day; Dr Marabotto himself never came to the building where the prisoners were held and the deponent never saw him there; he sent prisoners to the Infirmary on the insistence of the nurses or guard, following persistent negotiations with the guard, which were often unsuccessful. In answer to a direct question regarding how often Dr Marabotto saw Carlos Chassale or whether the prisoner was moved so that he could be given medical attention, the deponent states that Chassale was taken out approximately every five days and that it was the nurse who saw him and brought his medication. The deponent Selva Braselli also made a fuller statement (Sheets 111-113) which substantially confirms the above, as well as the presence of prisoners who had been subjected to torture in other prisons.

VIII. At the request of the examining judges, the Plenary Committee of the Commission appointed two further
judges, Drs Rodolfo Schurmann Pacheco and Atilio Morquío, so that the case could be studied in more detail.

IX. Dr Atilio Morquío produced a medical report (Sheets 115-119) on the cases of Ana María Pieri, Hilda Delacroix de Ormaechea and Carlos Chassale. Dr Alvaro Yanes also presented a report on the case of Carlos Chassale (Sheet 130 and reverse).

X. Sheets 121-129 contain the examining judges’ report to the Plenary Committee; Section II, “Analysis of the Facts”, reads as follows:

The following conclusions can be drawn from the proceedings of this case:

There are three concrete cases in which the conduct of Dr Nelson Marabotto as a doctor responsible for providing prisoners with medical attention is open to criticism; these are:

a) Ana María González Pieri, a young woman held in Military Prison No.2 in Punta Rieles, who died of bacterial endocarditis in the Central Hospital of the Armed Forces on 4 May 1976 (Sheet 11), having been hospitalized in the said establishment on 29 April 1976 on the orders of Dr Rosa Marsicano, who, together with Dr Nelson Marabotto, responsible for medical supervision in the said Military Prison. The report drafted by Dr Atilio Morquío (who has taken part in these proceedings) states that bacterial endocarditis “is an infection in the area of the heart, often in already weak structures, which is extremely serious right from the outset, and which may be subject to rapid deterioration which is often not included on the death certificate”; it is a disease which “requires immediate hospitalization of the patient, who should be carefully and constantly monitored by a nurse, checked by a specialist several times a day and given certain tests, all of which are essential to the correct treatment of the disease”. Nonetheless, as the said report points out and as emerges from the proceedings, the patient spent the early days of her illness in her cell, without any of the attention outlined above, despite the fact that there were signs of a possible earlier heart condition, which would indicate the need for special care in such cases; she was nonetheless left in her cell, which is a totally unsuitable environment for treating a patient in such a serious condition as it makes it impossible to monitor the patient – which is indispensable – and provide the right treatment. Dr Nelson Marabotto, who had seen the patient initially, went to see her in her cell on 28 April 1976, after persistent demands from other prisoners; his assertion that she was not in a serious condition when he saw her is contradicted by the facts since, the following day, Dr Marsicano ordered her to be sent urgently to the Military Hospital; when she arrived at the hospital, she was taken to the intensive care unit because she was in such a serious condition. The doctor’s assertion must also be rejected because, given the diagnosis, it is absolutely impossible for the disease to have developed from a benign state into an extremely serious condition in less than 24 hours (the period between the visits of Drs Nelson Marabotto and Rosa Marsicano). This indicates that the medical attention given to Ana María González Pieri was totally inadequate and was certainly an important factor in her death; although patients of this kind died in 100% of cases before the introduction of antibiotics and of practical standards of diagnosis and treatment, the situation now is quite different; even in very serious cases, patients can now be cured, provided that their condition is diagnosed and treated properly.

b) Hilda Delacroix de Ormaechea: this patient died of generalized cancer of the pelvis in the Military Hospital on 1 September 1976, following general deterioration, progressive loss of weight, anorexia and chronic diarrhoea. The cancer developed, for the most part, while the prisoner was being held by Artillery Group No. 5, under the care of Dr Nelson Marabotto. Its development was marked by highly significant symptoms which were not appreciated by the doctor. She was first sent to the Military Hospital for just two days to be treated for an incidental complication (dehydration, undoubtedly caused by the illness) and was not given a medical examination indicated as a matter of urgency by the gravity of her condition; her condition continued to deteriorate once she was back at the prison, but there was no change in the medical attention provided and the doctor responsible was evidently indifferent to her plight. Only when her condition was terminal was she sent back to the Military Hospital where, given the patient’s serious condition and the chronic symptoms (ascites, pleural effusion, etc.), neoplastic cachexia was immediately diagnosed. This was rapidly confirmed, but the situation was beyond the reach of any curative medicine and the patient died a month later. As Dr Morquío points out in the aforementioned report, it is a well-known fact that neoplasms can be cured provided they are diagnosed at an early stage and that the correct specialist treatment is provided; any delay in the diagnosis and its immediate confirmation will certainly result in the death of the patient. In the case in question, in the seven months during which Dr Nelson Marabotto was responsible for the patient, he did not take any steps to diagnose the disease; basically, he failed to perform any of the tests necessary to make an early diagnosis, as is required by modern medicine. On the contrary, his failure to perform any tests despite the progressive and serious deterioration of the patient’s condition reflect the passive attitude which was his only response; he was responsible for keeping the patient at the prison, hardly a suitable place for diagnosing or treating neoplasia, and did not ask specialists at the Military Hospital to perform the tests and examinations which were absolutely necessary – when the patient was hospitalized for two days, it was nothing to do with this, as already stated. Only when the neoplasm had become irreversible and terminal was the patient sent to the Military Hospital. It is evident that the doctor responsible took no action during the months following the appearance of the first signs of the disease, which implies a failure to comply with the basic principles governing the clinical management of patients, and in particular those governing the diagnosis of neoplasia, the fundamental basis of all treatment, of which it is impossible to believe that any doctor can be unaware.

c) Carlos Chassale was suffering from stage 4 Hodgkin’s disease with lymphocytopenia, which had been diagnosed at the Clinical Hospital before his arrest. On 7 January 1976, he was transferred from Infantry Group No. 13 to Artillery Group No. 5, where he came under the care of Dr Nelson Marabotto. A short time after his arrival, he was sent to the Military Hospital, where he spent 15 days under the care of the oncologist, Dr Glacius. He then returned to Artillery Group No. 5 and Dr. Nelson Marabotto’s care. Hodgkin’s disease is a cancer of the lymphatic system and it was confirmed to be in its final stages on his arrival at Artillery Group No. 5. According to the diagnosis (cellular type, fourth stage), the patient was suffering from the most serious form of the disease; it is extremely dangerous and leads to a massive breakdown of the patient’s immune defence mechanisms. At the prison, he suffered severe pains in his back and legs, a constant fever, anaemia and exhaustion which made it almost impossible for him to walk; he was given a fortnightly injection, not always regularly, of Velbe, a brand name for vinblastine, which was prescribed by the Military Hospital. He was kept in a building with other prisoners, lying on a mattress on the floor; the building contained a machine room,
partitioned off by a wire fence – the environmental conditions were altogether inadequate. A prison is obviously not the right place for providing medical treatment; it is all the more inappropriate if one takes account of the environmental conditions described above and the gravity of the patient’s condition, which called for a carefully controlled programme of treatment, frequent monitoring by the doctor responsible, occasional monitoring by a specialist, and treatment which includes the use of cytostatics (including Velbe during periods of stability or improvement) and the management of various drugs either simultaneously or successively during periods of deterioration. Treatment must be adjusted according to the progress of the patient, who must be checked daily by the doctor in charge during periods of deterioration and subjected to essential tests; he should also be monitored by a hospital and given supportive treatment, together with the anticancer treatment provided by the cytostatics. Until about 1960, this disease was in all but exceptional cases – fatal within less than five years; since then, and thanks to important studies (mentioned in Dr Morquio’s report), astonishing successes have been achieved and even the most seriously affected patients, such as Carlos Chassale, have lived for many years. In his case, however, none of the correct measures were taken and, as we have already pointed out, the patient was kept in conditions which, from a medical point of view, were totally inappropriate for the treatment of his disease (as confirmed by the report of Dr Alvaro Yanes), conditions which certainly helped to speed up the patient’s deterioration and shorten his life. As the doctor in charge, Dr Nelson Marabotto is directly responsible for this. The nature of the disease, its state of development, the patient’s physical condition and the living conditions in the prison all pointed to the patient’s immediate hospitalization at the Military Hospital, or somewhere where he could be given the medical treatment which was so urgently required. Three consultations with the oncologist over a period of six months were no substitute for the urgent treatment required.

The examining judges consider that an analysis of the cases described is sufficient to form a conclusion on the conduct of Dr Nelson Marabotto, which it is up to the Commission to judge from an ethical point of view. Nonetheless, we shall add some brief details of specific events which have been explicitly admitted by the aforementioned doctor:

a) it emerges from all the above information that, during the period when Dr Marabotto was serving as doctor in Artillery Unit No. 5, Avenida Burgues, these premises were used for the imprisonment of persons who had previously been subjected to physical oppression or torture in other military establishments, and that the conditions in which these prisoners – who were in the process of recovering from the serious after-effects of such treatment – were held were unsuitable;

b) Dr Nelson Marabotto expressly told the examining judges (Sheets 93-102) that the premises in which he was obliged to work were not suitably equipped to house a very large number of people; that the doctor had no control over living conditions, diet or type of food, and that, within the units, the doctor could not impose his will; that, in his view, the role of the military doctor is to act as technical adviser to the Commander in Chief, who is ultimately responsible for what is done, or not done, in his Unit. He also states that Military Prison No. 2 did have facilities (he does not give details) for the treatment of the sick and that, in practice and in his own experience, none of his orders was ever ignored, although in theory it was possible for the doctor’s orders to be countered by the military command.

XI. The report was presented to the Plenary Committee of the Commission, made available for examination for the prescribed period, and was approved at a meeting on 9 September 1986 (Sheet 127 and reverse). It was decided to grant the accused the right of inspection, in accordance with the regulations adopted. He was notified of his right of inspection by recorded telegram on 11 September 1986 (Sheet 128).

XII. On 18 September 1986, Dr Nelson Marabotto asked the Commission to pass the case to the Tribunal of Medical Ethics and University Conduct of the Faculty of Medicine (Sheet 130). Among other reasons, his request was based on the fact that he was forbidden by his superiors to appear before the Commission, whereas he was not forbidden to appear before the aforementioned body of the Faculty of Medicine. The Commission considered it inappropriate to grant this request and passed a resolution to that effect at a meeting on 23 September 1986; the interested party was informed of this decision by recorded telegram (Sheets 131-132).

XIII. On 19 September 1986, Dr Marabotto was sent photocopies of the entire case file (Sheet 131), for which he signed a receipt.

XIV. On 26 September 1986, Dr Marabotto challenged the Commission (Sheet 136 and reverse) and called on it to close the proceedings, declare its actions invalid and hand over its jurisdiction. He based his request on the fact that the Commission had prejudged the case since, in his opinion, it had accepted the findings of the examining judges without giving him an opportunity to defend himself.

XV. On 7 October 1986, the Commission resolved (Sheets 137-138) to reject the request for the reasons outlined in the resolution, essentially because it had not yet issued a decision on the case; the same resolution granted an extension of the right of inspection and defence, on the grounds that his depositions – though, in the view of the Commission, incorrect – were the reason for his earlier failure to take advantage of his right of inspection and defence. He was notified of the resolution by recorded telegram and a copy of the resolution was taken (Sheets 139-141).

XVI. Once the inspection period had expired on 20 October 1986, the Plenary Committee of the Commission resolved (Sheet 141, reverse), on 21 October 1986, to issue its final decision on the case on 28 October 1986.

and considering that:

I. The Comisión Nacional de Ética Médica shares the theories and conclusions of the examining judges’ report and will make the appropriate ethical judgement against Dr Nelson Marabotto.

In view of the particular nature of the proceedings under examination, the Council considers that the corresponding considerations should be divided into two groups – a formal group and a substantial group:

1) Formal aspects

There are essentially two aspects of the proceedings which have been questioned by Dr Nelson Marabotto: firstly, that no account was taken of the fact that he was prevented,
by order of his superiors, from coming forward to defend himself in the proceedings and could not give evidence; secondly, that he was condemned without having been heard, which is in contravention of Articles 12 and 18 of the Constitution of the Republic, Article 12 of the Declaration of Human Rights, and Article 8, Paragraphs 1 and 2 of the Covenant of Costa Rica.

A) As regards the obstacle to defend himself and give evidence cited by Dr. Marabotto, it should be pointed out that this assertion is contradicted by the facts of the case.

Putting aside the question of the validity of the supposed order from his superiors and without going into any analysis of its legality and legal regularity, it emerges from the summary of the investigation: that the accused made a statement and, in doing so, gave his evidence (Sheets 93-102), bringing an abundance of documentary evidence (Sheet 101) and suggesting witnesses for his defence, who were questioned (Sheets 106-108); that he was duly notified of all the developments in the proceedings (Sheets 76, 77, 91, 128, 129, 132, 133, 139 and 140); that he could have received professional assistance from a lawyer of his choice; that he was notified by recorded telegram of the examining judges’ report and was granted a period of ten days to come forward to defend himself, make his depositions and provide evidence (Sheet 128); that he was, for the sake of justice, granted a further ten days to formulate his defence (Sheets 138-139); that he was informed (Sheet 138) of the appropriate procedure by a distinguished professor of the Faculty of Law and Social Sciences who, at his request, examined the case for the Commission; that he was sent a photocopy of the case file (Sheet 131); that he incidentally put forward two formal pieces of defence (passing of jurisdiction to the Tribunal of Medical Ethics and University Conduct of the Faculty of Medicine, withdrawal and nullification of the proceedings), on which resolutions were passed by the Comisión Nacional de Ética Médica (Sheets 131, 137 and 138) and communicated to him (Sheet 139).

On the basis of the above, it may be concluded:

a) that the defendant had ample opportunity to defend himself;
b) that he effectively took that opportunity;
c) that he offered and produced evidence and depositions;
d) that he had an opportunity during two successive periods to contest the examining judges’ report; that he put forward two arguments during the first of these periods and allowed the other to lapse without formulating any argument in his defence (Sheet 141 and reverse).

B) As regards the second incident—his claim that the case had been prejudged or that he had not been allowed to put forward his defence, together with his claim that the principle of equality had been violated—it should be pointed out:

a) that the Comisión Nacional de Ética Médica, a union body which is competent to pass an ethical judgement on the conduct of accused doctors, has not, prior to this judgement, issued any opinion or verdict on the case brought before it;
b) that the only previous verdict—a valid act of investigation and accusation—was that of the examining judges, before whom the accused had the opportunity to formulate his defence;
c) that the Commission merely approved this verdict as a duly completed procedural act and communicated it to the accused without making any pronouncement on the content of the case;
d) that the citing by the accused, as legal grounds, of Constitutional regulations (Articles 12 and 18), the Universal Declaration of Human Rights (Article 10) and the Covenant of Costa Rica (Article 8[1] and 8[2]) because they are applicable to jurisdictional procedures confirms that the Commission applied the procedure laid down by these regulations and followed the prescribed order and formalities, that it granted him ample opportunity to defend himself and did not violate the principle of “innocent until proved guilty”.

In this last respect, it should be added that the procedure followed by the Comisión Nacional de Ética Médica is extremely liberal and firmly guarantees the rights of the doctor accused, features of which Dr. Nelson Marabotto was aware and took advantage.

The fact that he failed to exercise his right to defend himself before the examining judges is entirely his own fault, since he allowed the two inspection periods to lapse and, as regards the content of the case, maintained an attitude of total and inexplicable lack of interest.

2) With reference to the valuation or substantial decision:

The Commission fully shares all the ethical considerations of the examining judges, which it hereby adopts on announcing its final decision and transcribes hereafter: the examining judges consider that the events described compromise Dr. Nelson Marabotto’s professional standing from the ethical point of view.

a) In the cases of the prisoners Ana María González Pieri, Hilda Delacroix de Ormaechea and Carlos Chassale, he failed in his duties as a doctor, making omissions which the judges deem to be serious and which essentially imply a disregard for ethical principles which are explicitly mentioned in international instruments. On 18 December 1982, the General Assembly of the United Nations approved the “Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners or detainees against torture and other cruel, inhuman or degrading treatment or punishment”. Principle I of the said declaration states that “health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained”. The events related in Section I, Paragraphs a), b) and c), indicate a clear violation of this principle, in that the doctor failed to protect the physical health of the persons mentioned by failing to give due and proper attention to the requirements of each patient, to their diseases, and therefore did not provide the same standard of care as is provided for persons who are not detainees. They also imply a violation of the Preamble to the Declaration of Tokyo, adopted by the General Assembly of the World Medical Association on 10 October 1975, in that the doctor did not act with the necessary dedication to preserve and restore bodily health and alleviate suffering.

Such practices have been a feature of Latin America in recent years, particularly in those countries where
civil/military dictatorships hold, or held, power, with the subjugation of human rights through systematized practices being an everyday occurrence. A paradigm of such illegal behaviour was the torture of people under questioning, on trial or found guilty by their interrogators, judges and prison staff, mainly military and police personnel, with the collaboration or concealment of doctors, lawyers and politicians who supported the governing regime.

It is a well-known fact that this situation prevailed in Uruguay. In relation to people under questioning in Uruguay by the military and police security services, torture became an “institutionalized” method of obtaining confessions under constraint. In relation to people on trial and under prosecution, cruelty was part and parcel of prison treatment – naturally torturous – which ignored, also systematically, the provisions by gauging the intensity of these practices being an everyday occurrence.

III. The accused, who – having made his statement to the examining judges, given his version and made his depositions during his statement, regarding the events on which the accusations were based, and having provided evidence at the same time – on being granted the right to examine the report, merely put forward objections on formal issues (which were rejected) without formulating any defence regarding the contents of the case. His attitude may not in any way affect this judgement, without prejudice to which it is hereby pointed out that it is rather strange that, when exercising his right to defence, he did not try to refute the material contents of the accusation.

For these reasons, and in accordance with the provisions of the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners or detainees against torture and other cruel, inhuman or degrading treatment or punishment, approved by the UN General Assembly on 18 December 1982, and the Declaration of Tokyo, adopted by the 29th Assembly of the World Medical Assembly on 10 October 1975, The Comisión Nacional de Ética Médica hereby resolves:

1. to declare that the conduct of Dr Nelson Marabotto as a military doctor serving in Artillery Unit No. 5 and Military Prison No. 2 (Punta Rieles) was in violation of the ethical principles which should have governed his medical activities;
2. to notify the person concerned, the Sindicato Médico del Uruguay, the Federación Médica del Interior and the Faculty of Medicine of this resolution;
3. to make a record of this resolution.

On 31 October 1986, Dr Nelson Marabotto was notified by the Notary Public of the resolution passed by the Comisión Nacional de Ética Médica and was given a certified copy of the entire case file. Dr Nelson Marabotto refused to sign for receipt of this notification.

In May 1987, the Arbitration Tribunal of the Sindicato Médico del Uruguay decided to expel Dr Nelson Marabotto from the Gremio Médico Uruguayo on the basis of the evidence and final conclusions of the Comisión Nacional de Ética Médica. This resolution was immediately approved by the Executive Committee of the Sindicato Médico del Uruguay.

Proposed Declaration

I. For these reasons, the examining judges propose that the Commission declare that the conduct of Dr Nelson Marabotto as a military doctor serving in Artillery Unit No. 5 and Military Prison No. 2 (Punta Rieles) was in violation of the ethical principles which should have governed his medical activities.

II. Consequently, the proceedings of this case indicate that, examined in the light of ethical principles laid down by international bodies (with which the Commission’s findings must, essentially, comply), Dr Marabotto’s conduct represented a departure from the conduct expected of all doctors on the basis of such principles, and particularly those which must be applied according to the circumstances in which they work; conduct which was to be expected of Dr Nelson Marabotto as a lecturer in the Faculty of Medicine and a member of the Health Service Command. These assertions are based on the evidence relating to the serious cases brought forward which, on analysis, the examining judges considered sufficient in themselves for formulating their proposal, which is based exclusively on those cases where the evidence is irrefutable and so constitutes full proof.

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**Note:** The text provided is a transcription of the document and may contain formatting or stylistic elements not relevant to the content. It is intended to provide a clear and readable representation of the document's natural text.
What Can We Do?

This book would not be complete if we merely confined ourselves to analyzing torture and why and how and by whom it is used; it is essential, imperative even, that we ask ourselves what we can do, both as ordinary citizens and active participants in a universal society, and as professionals, as part of the small group of people who have the ways and means of understanding the suffering of mankind in this world.

In its report on a working meeting to investigate the involvement of doctors in torture, the British Medical Association asked the question: what can we do?

The Declaration of Tokyo states that:

it is the privilege of the medical practitioner to use his skills in the service of humanity. Those who practice medicine do so for diverse reasons. For some a deep sense of vocation leaves them no other choice; religious belief, scientific curiosity, job satisfaction or family traditions may be other compelling factors.

Whatever the doctor’s motives for entering medical school, throughout his training he must be taught to practice his profession at all times in the interests of his patients’ health rather than of himself. Postgraduate education should also be set within the same context so that the ethical framework within which the medical profession’s skill are applied is continuously reinforced.

The doctor offers his skills for the benefit of those who look to him to prevent or alleviate an ailment or disease; the skills of the doctor are perceived by the patient to be those of care and support.

It is a basic tenet of medical practice that the doctor should do no harm to those he seeks to help. However, treatment that is in the best interests of the patient may cause considerable pain and misery. Modern chemotherapy agents in the treatment of cancer can cause extremely unpleasant side-effects which, for the patient, may seem worse that the disease itself. The doctor’s object is solely the improvement in his patient’s condition and the arrest of the disease. The patient will accept painful, disfiguring or unpleasant treatment because he believes the doctor is acting in his best interests. This is the trust which binds doctor and patient together and places the doctor in a singularly privileged position.

These truths are restated here because any doctor’s involvement in torture strikes at the very roots of medical practice. The evidence given to the Working Party leaves no room for doubt that doctors are involved in many parts of the world in the physical and psychological torture of prisoners.

Only by testing torture against the basis of ordinary medical practice can a sound ethical position be retained.

The crucial point is that the doctor does not have an ordinary clinical relationship with the torture victims. When the doctor has used his skill to satisfy himself that the prisoner is not ill prior to torture, or when he has treated the prisoner so that the torture can continue, the doctor is no more than a servant of the torturer. He is an accessory — a party to the torture. The doctor who is involved at any stage in torture is prostituting his medical skills for an unethical and illegal purpose.

It is essential to define and lay down universal teaching guidelines on man’s ethical and professional conduct.

The particular case of the concept of due obedience, or of obedience to one’s superiors, is extremely important — a concept which must be defined as restrictively as necessary to prevent it being used to justify conduct which violates human rights. Writing on the false demands of “loyalty” in his book, La Funci6n Publica [The Public Function] (De Palma Bs. As., page 34), Rafael Bielsa states that “the sense of collaboration in government work is not that of a package by virtue of which everything must be permitted and legitimized; on the contrary, collaboration implies checking, reviewing, criticizing, observing and even actually opposing any act which is illegal or against the public interest”. The whole profession must maintain a degree of independence from the pressure from the political systems in which they are immersed.

The Demilitarization of Doctors

“To restore military doctors to civilian status in exercising their profession in the Health Services of the Armed Forces, given that this is merely a labour relation, just like that enjoyed by a doctor in the Public Health Service or a Collectivized Assistance Institution; and, in the particular case of Uruguay, to restore them to civilian status so that they are released from the obligations imposed on them by the Organic Law of the Armed Forces (Law No. 14.157) and Article 5 of Decree No. 783/73, which prevent them from freely exercising their rights, fulfilling their professional obligations and practising the medical profession in accordance with universally accepted rules of ethics” (Resolution passed by the General Assembly of the Sindicato Médico del Uruguay on 16 October 1986).

The definitive and universal sanctioning of a set of regulations to govern the doctor’s conduct in exercising his profession in his relations with the society in which he lives and with the government under which he serves. Such regulations are of vital importance in a world which is daily shaken by violence and violations of human rights and
must cover all doctors by being sanctioned by the United Nations.

Finally, we can unite our wills and, as doctors, remember this phrase from the Declaration of Geneva:

I will maintain the utmost respect for human life from its beginning even under threat and I will not use my medical knowledge contrary to the laws of humanity. We must always remember that neither society nor any institution can accept the return of torture, nor allow doctors to go against their profession and behave like mindless slaves of military authority. Under no circumstances, however extraordinary, must we accept the presence of any law, establishment or hierarchy which harbours ignominy and barbarity.
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The Rehabilitation and Research Centre for Torture Victims is an independent, humanitarian, non-political organization established in 1982 to help victims of torture and to contribute to the prevention of torture. Its main objectives are to rehabilitate persons who have been subjected to torture, to rehabilitate their families, to instruct Danish health professionals in the examination and treatment of persons who have been subjected to torture, and to carry on research into the nature, the extent and the consequences of torture.

The International Rehabilitation Council for Torture Victims is a private non-profit foundation, created in 1985 by the RCT. The objectives of the foundation are, on an international basis, to support research into all aspects of torture, to support education and training of health professionals and of other relevant personnel in the medical, social, legal and ethical aspects of torture, and to serve as an international clearing house for information about torture activities.