

BRAZIL

‘Subhuman’: Torture, Overcrowding and Brutalisation in Minas Gerais police stations.

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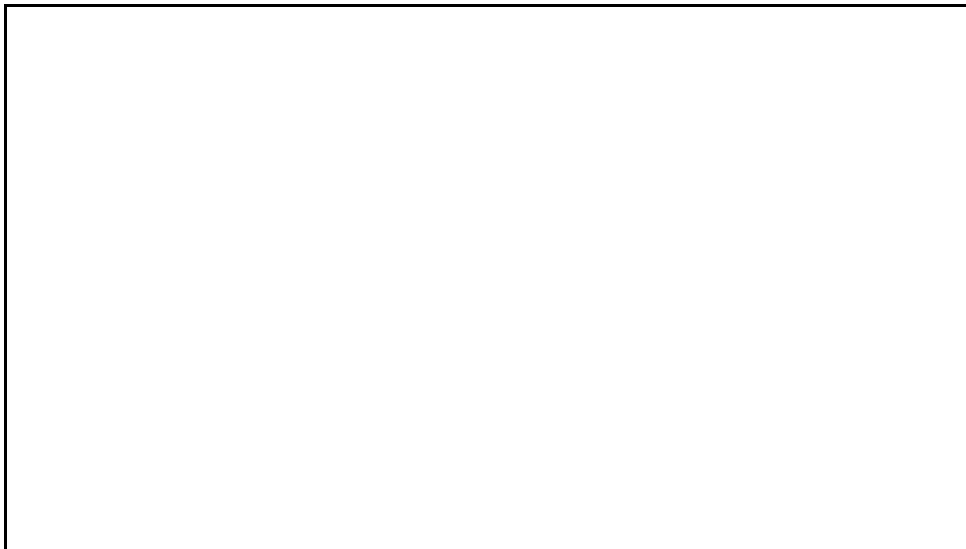
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Cover photo: Cells in the *Delegacia de Tóxicos* © AI.

BRAZIL

'Subhuman': Torture, Overcrowding and Brutalisation in Minas Gerais police stations.

"The rescue of the citizenship is one of the main goals in a society that focuses the recovery of a social order centred on human dignity..."¹
Minas Gerais state government, 2001.



Overcrowding in the *Delegacia de Tóxicos* © AI

9. PREFACE

More than three years ago, in November 1998, Amnesty International visited the *Divisão de Crimes Contra o Patrimônio*, commonly known as the *Delegacia de Roubos e Furtos*, Robbery and Theft police station, in Belo Horizonte, Minas Gerais state. During that visit the organisation received many accounts of torture and ill-treatment, while also witnessing the foul conditions that detainees lived in. In October 2001, Amnesty International returned to Belo

¹ Quotation from English language publicity material for PERSPECTIVA, State Program for Social Recovery, published by the Minas Gerais state government, 2001.

Horizonte to visit the *Delegacia de Roubos e Furtos*, and another civil police station in the city, the *Divisão de Tóxicos e Entorpecentes*, commonly known as the *Delegacia de Tóxicos*, Controlled Substances police station.

During the period between these visits the *Delegacia de Roubos e Furtos* has been inspected by public prosecutors, has been the subject of a judicial order² and was strongly criticised by the United Nations Special Rapporteur on Torture after his visit in August 2000. A full three years after Amnesty International first entered the unit, delegates could find nothing that indicated that state or federal authorities have intervened to improve conditions, to stop the violence, abuse and torture used by police working there or to curb the use of excessively punitive sentencing which has contributed to severe overcrowding of police stations in Minas Gerais. Nor have the authorities taken steps to provide police officers with the resources and training they need in order to perform their job professionally and without resorting to human rights abuses.

Recent saturation coverage of a number of high profile violent crimes in the Brazilian press has triggered a mass public condemnation of violence and renewed calls for tougher policing methods and more punitive sentencing. Official statistics show that the populations of Brazil's major cities, particularly the poor, endure astounding levels of crime and violence on a daily basis. Mass public protests have signalled the profound fear and the frustration suffered as a result of rising crime, especially among the middle classes. Yet while Brazil's police and prison systems continue to use violent and repressive methods as every day tools of their trade, and those held in detention are invariably crammed into already overflowing cells, crime levels continue to rise. National and international condemnation of Brazil's policing methods have consistently pointed out the failure by the authorities to ensure observance of national and international standards on public security, aimed at creating police forces which, while being effective at fighting crime, protect the human rights of all citizens.

In June 1999 Amnesty International launched an extensive report on the crisis within Brazil's penitentiary system. The report *"No one here sleeps safely." Human Rights Violations against detainees* (AMR 19/09/99) detailed the violence, neglect, filth, disease and abuse which Brazil's prison population suffers on a daily basis. Two years later, in October 2001, the report *Brazil: "They Treat us Like Animals": Torture and ill-treatment in Brazil. Dehumanization and impunity within the criminal justice system* (AMR 19/022/2001) was launched as part of Amnesty International's world wide campaign against torture. In this report the organisation documented how many of those working in both the police and prison system continue to use violence, terror, coercion and threats on a systematic basis. Torture has become both a method of police investigation as well as a desperate means of holding together a penal system in a state

² Decision handed down on 12 November 1999 by the Belo Horizonte criminal court (*Vara de Execuções Criminais de Belo Horizonte*) ordering that the station should hold no more than 200 prisoners.

of collapse. Together these reports have sought to identify some of the fundamental problems which have led to the corrosion of Brazil's public security system.

Over the years Amnesty International has recognised the difficulties faced by the authorities and the important measures introduced by federal and state governments to tackle the human rights crisis, such as the introduction of law 9,455 in April 1997, the Torture Law. The launch of the National Human Rights Program in 1995 demonstrated a willingness by the government to initiate a new discourse for human rights in the country. Amnesty International understands that there are plans to re-launch this program in the near future.

In November 2001, following condemnation from the UN Special Rapporteur on Torture, the UN Committee against Torture and Amnesty International, the federal government launched a national campaign against torture. The campaign included among its initial proposals the setting up of a telephone hot-line for receiving reports of torture. Amnesty International welcomed this initiative as official repudiation of the use of torture by state officials in Brazil. However, the organisation has consistently expressed concern that many of the measures adopted by the authorities fail to address the fundamental causes of human rights abuses, and the impunity enjoyed by their perpetrators. Initial reports from non-governmental organisations working to end torture in Brazil mirror these concerns, suggesting that the national torture campaign has been undermined by poor funding and training, little publicity and the lack of a coherent strategy in processing reported incidents of torture.

The security crisis faced by the Brazilian state and federal governments must not be underestimated. Solutions to mounting levels of urban violence will have to confront the complex social and economic problems which underlie this violence, as much as providing modern, effective and non-repressive policing. Nevertheless, it appears that after seven years in office the federal government, under President Fernando Henrique Cardoso, has continued to produce essentially 'quick fix' policing solutions, and reactive human rights campaigns in the form of projects, proposals and promises, often in response to sensationalist reporting in the press. Amnesty International has recognised that many of these projects are well intentioned and that if backed by the necessary political will and funding could offer potential solutions to some of the human rights problems suffered in the country. Yet over time it has been apparent that such measures have been invariably short term and rarely fully implemented. The authorities have failed to provide structured and effective strategies for reforming public security which has resulted in the sacrifice of the human rights of a substantial percentage of the Brazilian population to violent, repressive, and corrupt policing methods. At best these methods have proved ineffective in tackling crime; at worst they have fuelled the spiral of crime and violence that is currently posing a major threat to social stability in Brazil.

For both detainees and police officers in the two police stations in Belo Horizonte visited by Amnesty International in October 2001, the last few years of government proposals have had little impact.

10. INTRODUCTION

On 10 October 2001 a combined delegation of representatives of Amnesty International and the *Pastoral Carcerária*, the Catholic church prisons ministry, visited the *Delegacia de Roubos e Furtos* and the *Delegacia de Tóxicos*. The visit took place in the context of an Amnesty International research mission to Brazil, during which the organisation met with state and federal authorities, representatives of the human rights community, members of the police forces, victims of human rights violations and their families.

The *Delegacia de Roubos e Furtos* and the *Delegacia de Tóxicos* are civil police stations, which are responsible for the investigation of crimes.³ Amnesty International interviewed the police chiefs in charge of the stations, police officers and detainees, and visited offices and cells. In the cells in both stations, the organisation witnessed conditions of extreme overcrowding and received consistent reports of torture and ill-treatment. The overcrowding contributed to some of the most appalling conditions of detention documented by Amnesty International in Brazil in recent years.

Most civil police stations in Brazil have cells for holding pre-trial detainees for short periods. These units do not have the conditions or the facilities to offer the minimum standards required for long term detention. However, in both the *Delegacia de Roubos e Furtos* and the *Delegacia de Tóxicos* as in police stations throughout the country, pre-trial detainees are held well beyond the legally stipulated period⁴ after which they should be transferred to a pre-trial detention centre.

As a component of Amnesty International's worldwide campaign against torture, this report raises questions of torture, impunity, failures of the judicial system and state neglect, by focussing on long documented problems in the police stations of Minas Gerais. It highlights not only the brutalisation, humiliation and corruption which detainees are forced to endure in these

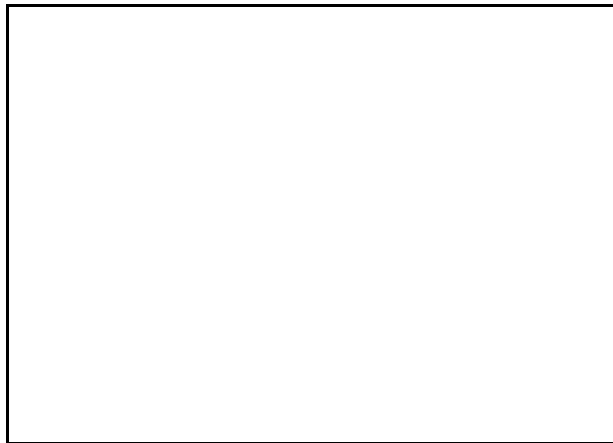
³There are four principal police forces in Brazil, a federal force - the federal police, which is responsible to the federal Ministry of Justice, and three state forces - the military, civil and traffic police, which come under the control of state government. The civil police undertake investigatory policing, while the military police are responsible for policing the streets.

⁴ Interpretations of Brazilian law on this issue vary, see Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/3. Addendum. Visit to Brazil. 30 March 2001 E/CN.4/2001/66/Add.2. para 108-110.

units, but also the unchecked, entrenched and systematic practice of torture by state officials which has gone on for so many years.

Delegacia de Roubos e Furtos

The *Delegacia de Roubos e Furtos* is responsible for the investigation of crimes against property throughout the state of Minas Gerais. Amnesty International was informed that civil police officers working at the station had no official training for the supervision of prisoners. Despite this at any given time 60 per cent of police on duty are involved with work supervising detainees. Staff also stated that in addition to supervision, police at the station are often called upon to give unofficial legal advice and medical assistance to their prisoners.



In the *Delegacia de Roubos e Furtos*, detainees showed AI fragments from bullets they said had been fired into cells by guards in order to terrorise inmates. © AI

Despite soaring crime levels and an increasing amount of time and man power spent supervising those in custody, the police chief in charge of the station informed Amnesty International that the number of police officers employed there had not increased in 20 years. Staff estimated that the cost of keeping a prisoner in the holding cells was R\$1200⁵ a month, none of which went towards upkeep or improvement of the station itself. Security at the *Delegacia de Roubos e Furtos* is problematic, and attempts at escape and rebellion are common. In March 2001 an escape attempt left four inmates and one police officer injured.

⁵ Approximately US \$500.

In 1997 a prison commission from the state legislative assembly visited the police station and concluded that, '...urgent measures must be taken in favour of the dignity of those human beings who, in the care of the state, live like animals.'⁶

Delegacia de Tóxicos

The *Delegacia de Tóxicos* investigates issues related to illegal drug-trafficking and consumption of illegal drugs in the state of Minas Gerais.

The majority of men detained at the station are young; in one cell that held 34 prisoners, 75 per cent of those held within were under the age of 24. Escape attempts and attempts at rebellion are common and Amnesty International was informed that all bars to the cells had recently been resoldered in order to increase security. Prisoners at the station are offered no official social, psychological, medical or legal assistance. According to staff, police themselves are often the sole source of legal advice for the prisoners.

11. A SYSTEM IN CRISIS

The UN Special Rapporteur on Torture stated in the report published following his visit to Brazil:

"...conditions of detention in many places are, as candidly advertised by the authorities themselves, subhuman. The worst conditions the Special Rapporteur encountered tended to be police cells...The problem was not mitigated by the fact that the authorities were often aware and warned him of the conditions he would discover."⁷

The main concerns identified by Amnesty International in the *Delegacia de Roubos e Furtos* and the *Delegacia de Tóxicos* and discussed in this report are the 'subhuman' conditions of detention and chronic overcrowding; the systematic torture of detainees and the impunity enjoyed by the police officers who torture them; the total lack of any medical facilities; and the allegations of corruption typified by consistent reports that some officials extract payment in return for facilitating transfers.

⁶ '...que devem ser tomadas urgentes medidas em favor da dignidade de seres humanos que, sob a guarda do Estado, vivem como animais'. Relatório da Comissão Parlamentar de Inquérito do Sistema Carcerário da ALEMGO, 1997.

⁷ Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/3. Addendum. Visit to Brazil. 30 March 2001 E/CN.4/2001/66/Add.2. para 167.

In Minas Gerais responsibility for police stations falls to the state Secretariat for Public Security, while that for prisons falls to the Secretariat for Justice and Human Rights. According to information received by Amnesty International, better conditions in prisons in Minas Gerais are being maintained at the cost of extreme overcrowding in civil police stations such as the *Delegacia de Roubos e Furtos* and the *Delegacia de Tóxicos*.

Following several discussions with police, NGOs and detainees, Amnesty International was informed that the state Secretariat for Justice and Human Rights had consistently refused to accept transfers of convicted detainees from the police stations which are under the control of the Secretariat for Public Security. Though international⁸ and Brazilian law⁹ require the separation of pre-trial and convicted detainees, the Secretariat for Justice and Human Rights has reportedly refused to accept further convicted prisoners in the state penitentiary system. This refusal has reportedly been based on the allegation that this would lead to overcrowding and thus a violation of the *Lei de Execução Penal* (LEP), Law on the Execution of Sentences, which states that condemned prisoners should be entitled to a space of at least six square metres each¹⁰. Amnesty International has written to the state authorities asking for clarification on this issue, but four months on no reply has been received (see Appendix I for letter).

Official figures from the State Secretariat for Public Security shown to Amnesty International in October 2001 by a member of the *Conselho da Comunidade*, Community Council, a community body which monitors prisons, show that the prison population in Minas Gerais stood at about 4,400, where as those held in police stations numbered around 14,772.¹¹ Of those held in police stations around 9,000 have been convicted. Amnesty International was informed on the day of the organisation's visit that over 200 out of the 437 held in the *Delegacia de Roubos e Furtos*, and an estimated 70 per cent of those held in the *Delegacia de Tóxicos* had been already condemned. These figures seem to indicate, as Amnesty International was informed,

⁸Article 10 of the International Covenant on Civil and Political Rights requires: 2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons.

⁹*Lei de Execução Penal (Lei Nº 7.210 de 11 de Julho de 1984) Art.84; 'O preso provisório ficará separado do condenado por sentença transitada em julgado.'* Law on the Execution of Sentences Art. 84 The provisional detainee will be separated from the detainee whose conviction has been upheld following full judicial process (unofficial trans).

¹⁰ *Lei de Execução Penal Art.88 - O condenado será alojado em cela individual... área mínima de seis metros quadrados* Law on the Execution of Sentences Art. 88 - Condemned prisoners are to be held in individual cells...[of] a minimum area of 6 square metres (unofficial trans).

¹¹In 1998 Human Rights Watch reported that 82 per cent of prisoners in Minas Gerais were held in police stations. Human Rights Watch: *Behind Bars in Brazil* (ISBN:1-56432-195-9) December 1998.

that the prison system is being safeguarded from overcrowding at the expense of the human rights of thousands of detainees held in police stations in conditions of appalling neglect and violence.

In Minas Gerais Amnesty International was informed that no provisions exist for holding pre-trial detainees under the conditions required under *Lei de Execução Penal*. This has meant that pre-trial detainees are held in police stations, under the control of the Secretariat for Public Security, longer than the legally stipulated 24 hours. Police chiefs also complained to Amnesty International that due to judicial backlogs pre-trial detainees could be held for periods much longer than the stipulated 81 days of pre-trial detention.

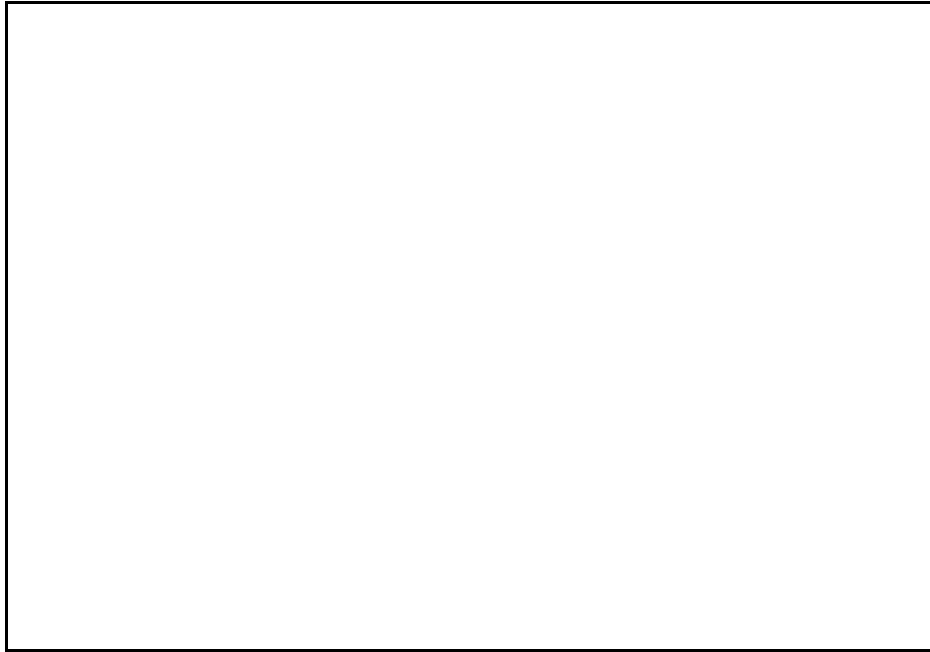
The high number of detainees in the penal system is not only attributable to the state authorities. Police in both police stations, especially in the *Delegacia de Tóxicos*, stressed that the use of increasingly punitive sentences against petty offenders, often drug users, had directly contributed to the inordinate numbers of those held in detention. The insistence on the part of the public prosecutor's office to prosecute minor offenders, and the reluctance of the judiciary to hand down alternative sentences, has undoubtedly placed an untenable burden on the penal system.¹²

These views are supported by comments made by the United Nations Special Rapporteur Against Torture who concluded after his visit to Brazil that many pre-trial detainees and condemned prisoners did not need to be held in detention, and were often the victims of inflated charges:

“...the police, prosecutors, or even judges were said to freely qualify theft as robbery to put petty criminals, who in many countries would not even receive a custodial sentence, in a prison for long periods. Moreover, it is alleged that the police frequently coerce confessions to the more serious offence, even when a suspect is willing to confess to a lesser one. The law seems to act as an incentive to the police to extract confessions to crimes that may be more serious than those actually committed. This tendency seems also to be reinforced by constant calls from the public and politicians for stricter measures to be taken against criminals. This policy not only

¹² It is worth noting that the Minister of Justice, Aloysio Nunes Ferreira, recently announced the launch of a national program to support the further implementation of alternative sentences. During a speech on alternative sentencing the Minister stated that there was a need to ‘shake up the conservatives’ who do not adopt these measures against petty criminals. (‘O Globo’ 27 February 2002)

results in a substantial level of unnecessary deprivation of liberty, but also contributes to the overcrowding problem..."¹³



Detainees caged in this outdoor area in the *Delegacia de Tóxicos* are unprotected from the elements. © AI

The situation in the *Delegacia de Roubos e Furtos* has continued to deteriorate despite the decision handed down on 12 November 1999 by a judge in the Belo Horizonte criminal court (*Vara de Execuções Criminais de Belo Horizonte*) which ordered that the station should hold no more than 200 prisoners. Following Amnesty International's visit last year, a further decision was handed down on 7 November 2001 regarding the *Delegacia de Tóxicos*, which determined that the maximum capacity of the unit should be no more than 80 prisoners. Despite these decisions there have been no reports of a marked reduction in overcrowding. The organisation also received complaints that judges and prosecutors were not upholding their legal obligation¹⁴

¹³ Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/3. Addendum. Visit to Brazil. 30 March 2001 E/CN.4/2001/66/Add.2. para 100.

¹⁴ *Lei de Execução Penal* Art. 66 (VII) [*Compete ao Juiz da Execução:*] - *inspecionar, mensalmente os estabelecimentos penais, tomando providências para o adequado funcionamento e*

to make regular inspections of the cells where those prisoners were sent. In a positive development Amnesty International was recently informed that public prosecutors have now been making these visits since November last year.

The police chief in charge of the *Delegacia de Tóxicos* estimated that 80 per cent of those detained at the station on the day of Amnesty International's visit were not drug traffickers, but users and petty dealers who had been arrested with small quantities of drugs, often only for personal consumption. This view is supported by an opinion expressed by the United Nations Special Rapporteur Against Torture:

'according to the Governor of the State of Minas Gerais, more than 40 per cent of detainees in the state have been sentenced for drug trafficking while NGOs and law practitioners pointed out that most had only been caught with a very small quantity of drugs (mostly marijuana) believed to be for their own consumption.'¹⁵

In the *Delegacia de Tóxicos*, Amnesty International interviewed M.F.S., a paraplegic, who said that he had received a sentence of 4 years, 8 months for possession of 50g of marijuana.

In 1998, the former police chief at the *Delegacia de Roubos e Furtos* informed Amnesty International that it was his intention to keep conditions as bad as possible in order to force the authorities to transfer prisoners into the prison system.¹⁶ It appears that this informal policy is still in place, given that conditions have worsened and that chiefs at both police stations, who were keen to see the situation made public, repeatedly stressed their inability to better the situation in the face of the failure of the Secretariat for Justice and Human Rights to take condemned prisoners off their hands.

Supervision of detainees severely interferes with the investigative duties of civil police officers. The police chiefs interviewed informed Amnesty International that between 60 and 80 per cent of officers on duty at any moment can be working with detainees. Yet these police officers

promovendo, quando for o caso, a apuração de responsabilidade. Law on the Execution of Sentences Art.66 [It is the responsibility of the Judge] - to make monthly inspections of penal establishments, taking steps to ensure that they are functioning appropriately, and when necessary initiating investigations (unofficial trans.).

¹⁵ Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/3. Addendum. Visit to Brazil. 30 March 2001 E/CN.4/2001/66/Add.2. Para.100

¹⁶ "No one here sleeps safely." Human Rights Violations against detainees. AMR 19/09/99, June 1999 p. 29.

receive no official training for supervising prisoners or working at a detention centre. This grave lack of training and resources, bolstered by public pressure on the police to demonstrate that they are effective at fighting crime, have created a climate in which corruption, malpractice and torture have been allowed to flourish.

This state of affairs is nothing new. In 1996 the Belo Horizonte Municipal Commission for Human Rights and Citizenship reported:

?The police in [Belo Horizonte] work almost exclusively outside of 'formal', not to say 'legal' limits. Arbitrary practices...[include] the practice of brutality and physical violence; the systematic application of ill-treatment and torture as a method of investigation." ¹⁷.

12. A HISTORY OF ABUSE

Amnesty International has visited numerous police stations in Belo Horizonte. In 1998 the organisation visited the *Delegacia de Roubos e Furtos* and the *Delegacia de Repressão a Furtos e Roubos de Veículos*, the Vehicle Theft police station.

Amnesty International, UN representatives, human rights organisations, state and municipal commissions and members of the legal profession have recorded reports of torture, ill-treatment and even "disappearance" from the *Delegacia de Roubos e Furtos* for many years. In 1992 three Argentine prisoners were tortured in custody. One, Carlos Fontecillo Bustos, died as a result. On 8 June 1998 George de Assis and Guilherme Henrique were taken to the station for questioning, where witnesses have testified that they were tortured. Reportedly neither man has been seen since. The state authorities have claimed that they were transferred to a prison and then released. On 25 November 1998, Wellington da Silva was detained for questioning and has not been seen since. Two friends arrested with him and later released claim that they heard his screams, followed by silence. His mother and sister waited all night outside the police station and were informed in the morning that he had 'escaped'.

In 1999 public prosecutors (from the court which oversees prison sentencing and which has a legal obligation to monitor the police) who visited the *Delegacia de Roubos e Furtos* were attacked when they surprised police in the process of torturing prisoners in their care. The public prosecutors discovered numerous torture instruments, including electric wires for administering

¹⁷ Coordenadoria de Direitos Humanos e Cidadania da Prefeitura de Belo Horizonte: "*A polícia da capital mineira trabalha quase exclusivamente fora do 'formalismo', para não dizer da 'legalidade'. Procedimentos arbitrários...[incluindo] a prática de brutalidade e violência física; maus tratos e tortura aplicados de forma sistemática como instrumento de investigação*". Documented in the Human Rights Watch report: *Behind Bars in Brazil* (ISBN:1-56432-195-9) December 1998.

shocks and a metal bar for use as a *pau de arara*, parrot's perch.¹⁸ They found a prisoner, whose torture session had evidently been interrupted by their arrival, with fresh marks on his body and 18 other prisoners who showed signs of being tortured. As the prosecutors began to take names and details, police officers reportedly attempted to incite prisoners to riot in order to force the prosecutors to leave the cells area. When the prosecutors left the police station, they were subjected to a barrage of abuse and threatened with firearms. Their car was covered in abusive graffiti, its tyres slashed. The police chief at the time and nine officers were removed from their duties as a result.

In *Behind Bars in Brazil*¹⁹, a report published in 1998, Human Rights Watch documented numerous cases of torture at the *Delegacia de Roubos e Furtos* practiced between 1992 and 1998. The station also featured in the 1999 Amnesty International report on prisons in Brazil "No one here sleeps safely." *Human Rights Violations against detainees AMR 19/09/99*, following denunciations received by delegates who visited the police station in 1998. In that year Amnesty International was informed by detainees that they were regularly subjected to torture sessions involving beatings and electric shock treatment, sometimes while suspended from the '*pau de arara*'. Detainees reported that torture sessions took place in a tiled room on the ground floor of the police station. The United Nations Special Rapporteur Against Torture, who visited the *Delegacia de Furtos e Roubos* in September 2000, listed 43 individual cases of torture of detainees at the station in a report published following his visit to Brazil. Amnesty International cited three individual cases of torture and extortion in the unit in "*They Treat us Like Animals*": *Torture and ill-treatment in Brazil*, published last year.

¹⁸Torture by the parrot's perch, the use of which has been favoured in Brazil since the military dictatorship, involves the suspension of a prisoner upside-down from a pole to which they are bound by their hands and ankles. While suspended from the pole, the prisoner is usually subjected to beatings and/or electric shock treatment.

¹⁹Human Rights Watch: *Behind Bars in Brazil* (ISBN:1-56432-195-9) December 1998

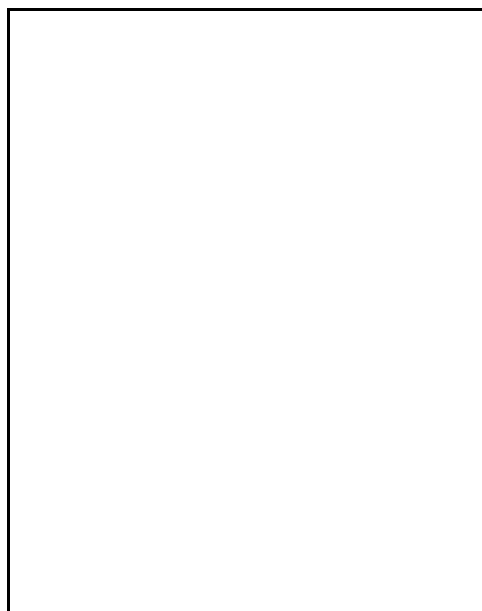
13. AMNESTY INTERNATIONAL'S FINDINGS, OCTOBER 2001

Torture

In October 2001 Amnesty International made the distressing discovery that reports of torture sessions and beatings at the *Delegacia de Roubo e Furtos* were still numerous and consistent. This was in spite of assurances made by the police chief that torture and ill-treatment of detainees at the station was a thing of the past. He went on to remark that occasional reports of injuries at the station were caused by prisoners who wound themselves in order to obtain a transfer to a more bearable place of detention.

As in 1998, prisoners reported that torture sessions and beatings usually took place in a tiled room situated on the ground floor of the police station. These torture sessions reportedly involved beatings and electric shocks. Prisoners also reported that beatings would often take place on arrival at the station with the apparent intention of subordinating and humiliating new arrivals. In addition to these reports of torture, detainees stated that police officers regularly fire gunshots or spray hoses into the cells in order to punish and terrorise those within. They showed Amnesty International numerous bullet fragments that inmates said came from bullets that had been fired into the cells in this way.

Amnesty International was alarmed to learn of allegations that a longstanding staff member at the police station was involved in torture sessions that took place there as long ago as 1969. The staff member, who was reportedly present on the day of the delegation's visit, is named by the *Projeto Brasil Nunca Mais*, Brazil Never Again Project, as 'a person directly involved with torture'²⁰. The same staff member has also been



According to detainees, torture sessions take place in this tiled room in the *Delegacia de Roubo e Furtos*. © AI

²⁰"As Torturas" Tomo V, Volume 2 p. 309-311. Projeto Brasil Nunca Mais (www.torturanuncamais-rj.org.br). The *Projeto Brasil Nunca Mais* was set up in 1985 in order to document cases of torture and the identity of alleged torturers active under Brazil's military regime of 1964-1985.

named by the media as having been involved in torture sessions at the station in 1996²¹ and as recently in 2001²². According to one article published in the *Jornal do Brasil*²³, the staff member is also the officially registered regional president of a police benevolent organisation called *Escuderie Detetive le Cocq*, which for decades has been linked to allegations of death squad activities and organised crime in several states in Brazil.

In the context of these allegations, Amnesty International is concerned to note that methods of torture used in the police station in the 1960s are said to be in regular use there today.

Excerpt from 'Rap do Furto' written by a detainee in the *Delegacia de Roubos e Furtos* and handed to Amnesty International -

"Boom, boom it doesn't stop, this is the rap of the Furtos and what goes on there. In jail I've been so deceived, as well as being in prison, we're also humiliated...Here comes XXXX [a named officer] high as a kite, causing trouble because he's out of his head. There goes XXXX [a named officer] trying to impose respect, taking us off to the [parrot's] perch, thinking that it's his right. The day of the inspection is pure terror, a gang of naked men, running along the corridor..."

"Bumba, bumba sem parar, este é o rap do furto, sobre o que rola lá. Che ganho na cadeia a maior decepção, além de estarmos presos passamos humilhação...La vem XXXX, cheirado e voidado, tirando a maior onda so porque está ferrado. La vem o XXXX querendo impor respeito, tirando nos pro pau, pensando que tem direito. No dia da geral e o maior terror, um monte de homen pelado, correndo no corredor..."

In the *Delegacia de Tóxicos* Amnesty International received consistent and detailed denunciations of torture and ill-treatment at the hands of a minority of named police officers working in the station. Numerous detainees described being subjected to beatings in a room called the '*sala de reconhecimento*', identification room, often with a flat truncheon wrapped in rubber which they referred to as a '*cocotada*'. They repeatedly described the use of this weapon to beat them on the joints of their arms and legs, the soles of their feet and the palms of their hands. Some prisoners also informed the delegation that in addition to beatings with the '*cocotada*', they had been subjected to torture sessions that involved the application of electric shocks and semi-asphyxiation with plastic bags.

Another consistent element in the reports of torture or ill-treatment received in the *Delegacia de Tóxicos* by Amnesty International was the fact that many detainees referred to windowless punishment cells in another area of the police station which they called the '*escuro*', the hole.

²¹'Policial se considera injustiçado'; *Jornal do Brasil* 14 October 2001

²²'Novas denúncias de torturas na Furtos e Roubos'; *Estado de Minas* 23 March 2001

²³'Policial se considera injustiçado'; *Jornal do Brasil* 14 October 2001

They said that after torture sessions and beatings that it was common for victims to be taken nude to these unfurnished cells and left there in solitary for a number of days. During this period detainees are reportedly denied food.

When Amnesty International asked to visit the '*escuro*' the organisation was shown two cells sealed by a heavy cast-iron door that allows for no light or ventilation, matching the description given by most detainees. However, when the delegation asked police guards to unlock the cells, they found them to be full of material such as televisions, beds, bicycles and filing cabinets. The guards informed Amnesty International that the cells were used as a secure deposit for goods confiscated from crime scenes. The security measures in place for the protection for these goods, which were of low value, far exceeded the level of security provided for the 2 tonnes of illegal drugs stored on the premises. These narcotics were locked inside a regular, wooden-doored room inside the police station, despite the complaints of staff members that the presence of such a valuable quantity of illegal drugs might make the police station a vulnerable target for attacks.

Following conversations with detainees, NGOs and representatives of the public prosecutors office, Amnesty International was concerned to see that prisoners were consistently unable to report incidents of torture without fear of reprisal. Those that did rarely had access to an independent and private medical examination to document any injuries. However, Amnesty International has noted and welcomed the setting up of a special department within the public prosecutors office for the prosecution of human rights cases. Though woefully understaffed, prosecutors in the *Promotoria de Defesa dos Direitos Humanos*, human rights department of the public prosecutors office, have initiated numerous prosecutions of police for human rights violations. Most notably, according to official figures²⁴, the state of Minas Gerais has tried more cases and achieved more convictions under the Torture Law than any other state in Brazil as a result of the efforts of the two prosecutors working in this office. Nevertheless, information received by Amnesty International indicates that many cases of torture in Minas Gerais continue to go unreported and uninvestigated by the police. Impunity for perpetrators is still an extreme problem, as the prosecutors themselves informed Amnesty International.

²⁴ Figures from the National Council for State Attorney Generals [Procuradores-Gerais de Justiça] Zero Hora 19/12/2001.

Overcrowding and cruel, inhuman and degrading conditions of detention

The United Nations Standard Minimum Rules for the Treatment of Prisoners²⁵ require that:

10. All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climactic conditions and particularly to cubic contents of air, minimum floor space, lighting, heating and ventilation.

On the day of Amnesty International's visit to the *Delegacia de Roubo e Furtos* 437 detainees were held in the station, which has an official capacity of 67. Staff said that this meant that on average each prisoner had a personal space of only 60 square centimetres.

Overcrowding in the filthy cells was such that detainees explained that the only way in which they can sleep was by operating a rota. This means that one group of prisoners must stay still and remain silent, while another attempts to sleep. This situation causes extreme tension which can fuel violent fights between cell mates. Conditions are made worse due to a rule that prisoners in the police station are not allowed to wear shoes, or even plastic sandals. Amnesty International was informed by staff that prisoners were not allowed to use footwear for security reasons. Inmates at the police station only leave their cells for one hour once a week, on Fridays, when they are made to stand naked in a yard outside while their cells are searched. Apart from this they remain crammed into the cells, which are largely below ground level and thus dank and airless.

Although the *Delegacia de Tóxicos* has a legal capacity to incarcerate only 28 prisoners in the cells on the premises, on the day Amnesty International visited, there were 280 detainees being held in conditions of extreme squalor. A caged outdoor exercise area and the *parlatória*, a room designed for prisoners to talk in private with their lawyers, were both being used to hold detainees. Neither of these places was designed for the purpose of holding prisoners and thus no sanitary facilities were available; prisoners must use plastic bottles and foil food containers as a replacement for toilets. As it had been raining in the days previous to the visit; and those caged in the outdoor area had no protection from the cold and wet weather conditions, their clothes and personal belongings were mostly wet. Those interviewed by Amnesty International in this area were in a state of constant movement in order to maintain a degree of warmth. Almost all of the detainees exposed to the elements in this way exhibited respiratory problems; some of them informed Amnesty International that they suffered from more serious illnesses which could

²⁵Standard Minimum Rules for the Treatment of Prisoners. Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

only worsen under such conditions. In the *parlatória*, 11 prisoners, who were crammed into a space of approximately 4 square metres, reported that the number of detainees held there had on occasion risen to 22.

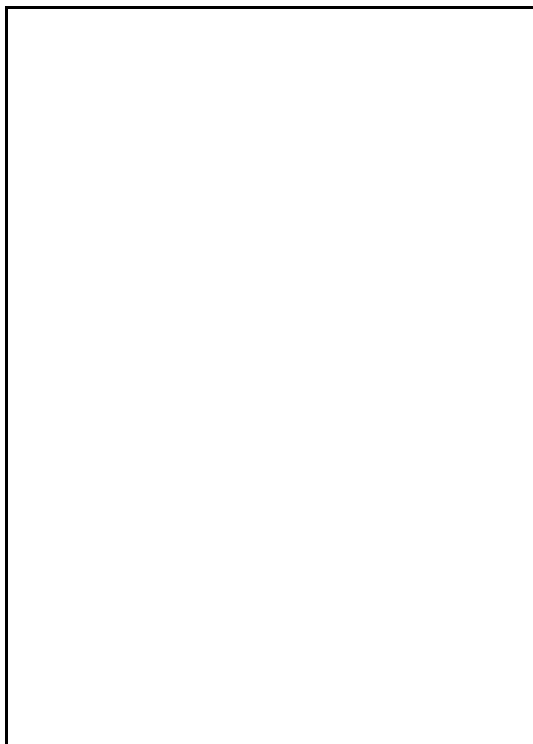
Conditions in those cells actually designed for holding prisoners were no less disturbing. The only source of light or ventilation for the filthy cells was the barred door. Up to 34 prisoners were held in cells measuring approximately 20 square metres. Once again, the prisoners can only sleep in rotation, some even forced by necessity to do so in the cell's only toilet. Both prisoners and guards informed Amnesty International that detainees may only leave their cells, which have no electricity, for only one hour every fifteen days. In one cell delegates interviewed a paraplegic man who could not fit his wheel chair into the cell and was therefore forced to sit on the floor.

Words written on a note handed to AI by a detainee - "Our physical needs (urinating, defecating) are taken care of in a foil container, or in a plastic bottle (the same one being used by everyone) exposing us all to the risk of infection...our space, which is designed as an area where the prisoner talks to his lawyer, has no washroom or even water. Because of the overcrowding there have already been more than 20 people held in this place, today there are eleven prisoners here. This place doesn't even measure 4 metres squared...each cell is let out twice a month, for a period of one hour, on the same day for all the cells..."

"Nossas necessidades fisiológicas (urinar, defecar) são feitas na vasilha de Marmitex, e uma garrafa plástica (essa mesma usada pela coletividade) expondo todos ao risco de adquirir uma doença...o nosso espaço que é destinado ao preso conversar com o seu advogado, não tem o banheiro, nem água. E por motivo da lotação já teve mais de 20 pessoas presas neste local, e hoje se encontra onze presidiários neste mesmo. Local este que não é dotado nem 2 x 2 quadrado...o banho de sol é permitido duas vezes por mês a cada cela, durante o período de 1 hora, em um dia para todas as celas..."

Medical Situation

There are no formal facilities for the provision of medical attention at either police station. The police chief at the *Delegacia de Roubos e Furtos* informed Amnesty International that the only medical supplies used came from donations by church and charitable organisations, and that it is often the police themselves who must administer medical treatment, such as injections. Otherwise, medicine for detainees must be brought in by their families, some of whom complained that officers at the station would take medicine from visiting relatives and subsequently refuse to hand it on to the prisoner in question. One doctor who makes weekly visits only has time to inspect the most gravely ill of detainees. The majority of prisoners interviewed by Amnesty International in both police stations were suffering from scabies.



The 'infirmary' in the *Delegacia de Roubos e Furtos*. © AI

A makeshift infirmary has been set up in a cell in the *Delegacia de Roubos e Furtos*, but does not have beds or any medical equipment and therefore provides no degree of sanitation or comfort for those suffering from serious medical problems. Furthermore, the makeshift infirmary is not only used to detain those suffering from serious health problems, but also those prisoners in the police station who are at risk of attack from other detainees. The sick prisoners expressed their worry, that should there be a rebellion at the station, that they too could be targeted for attack simply because they share a cell with 'at risk' detainees. Amnesty International interviewed one sick inmate suffering from a urinary infection who was lying on the floor of the 'infirmary'. He was urinating through a catheter and said that he had been in that position for 20 days and had lost the feeling in his legs. Police guards had been forced to transport him to hospital in a police vehicle.

In the *Delegacia de Tóxicos*, where Amnesty International found no sign of any medical facilities or makeshift sick bay, the organisation once again was told that the only medical supplies used at the station were provided for by means of informal donations.

Corruption

Endemic corruption and impunity has contributed to a culture in which 'might is right', translating into crimes such as torture, often linked to attempts by the police to extract money from the victim or his family. Prisoners throughout the *Delegacia de Tóxicos* made repeated allegations that a group of corrupt officers exploit the critical situation for financial profit by running a black market for goods and services for which they charge extortionate prices from inmates. The most commonly mentioned service for sale was a transfer. Prisoners informed Amnesty International that prices asked to secure a transfer range between R\$2000 to R\$6000 (c. US\$850 - US\$2,500), with R\$ 3000 (c. US\$1,250) being the most common figure quoted.²⁶ Allegations that payment

²⁶ Note that the minimum salary in Brazil is R\$180 per month(c. US\$75).

can be demanded for transfers at the *Delegacia de Roubos e Furtos* are also common. The United Nations Special Rapporteur stated that detainees there,

“...explained to [him] that in order to be transferred to a prison, where conditions of detention were believed to be better, a certain amount of money (up to 3,000 reais) had to be paid to the head of the police lock-up.”²⁷

Amnesty International also heard allegations in the *Delegacia de Tóxicos* that police guards have made relatives pay to enter the station when late for a visit; charge to arrange intimate and matrimonial visits; charge for prisoners to make collect phone calls and sell them blankets. Prisoners alleged that food is deliberately denied them so that they are forced to buy canteen food from officers who make a 100-200 per cent profit on each item sold. Detainees also alleged that some officers went so far as to confiscate food brought to them by their families in order to re-sell it to other inmates.

14. CONCLUSION

Amnesty International welcomes the intention expressed by the Minas Gerais when it states in one of its own publications on prisons that:

"The rescue of the citizenship is one of the main goals in a society that focuses the recovery of a social order centred on human dignity. Minas Gerais government believes that only with the guarantee of all the rights of a citizen (giving conditions to his/her personal and professional development) countries such as Brazil will be able to find efficient solutions to interrupt the growth of violence and social crisis."²⁸

However, the abysmal conditions, medical neglect, torture and corruption documented by Amnesty International in the *Delegacia de Roubos e Furtos* and the *Delegacia de Tóxicos* do not provide for human dignity and offer no scope for the rehabilitation of detainees. Without a strong commitment on the part of the state authorities and judiciary to address the punitive sentencing, poor training and working conditions for police officers, overcrowding and impunity

²⁷ Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/3. Addendum. Visit to Brazil. 30 March 2001 E/CN.4/2001/66/Add.2. Para 66

²⁸ Quotation from English language publicity material for PERSPECTIVA, State Program for Social Recovery, published by the Minas Gerais state government, 2001 and sent to Amnesty International in November 2001.

that all contribute to this terrible example of violence, abuse and omission, it remains improbable that a state such as Minas Gerais “will be able to find efficient solutions to interrupt the growth of violence and social crisis”²⁹.

15. RECOMMENDATIONS

Amnesty International calls on the Minas Gerais state government to implement the following recommendations:

Torture

- All complaints and reports of torture should be promptly, impartially and effectively investigated by a body independent of the alleged perpetrators. The methods and findings of such investigations should be made public, and passed on to the Human Rights Department of the Public Prosecutor’s Office. Officials suspected of committing torture should be suspended from active duty during the investigation. Complainants, witnesses and their families should be protected from intimidation and reprisals.
- Those responsible for torture should be brought to justice and prosecuted under Law N° 9455, the Torture Law.
- There should be a complete reform of police training especially with regard to investigation techniques, crime scene handling, basic forensic knowledge and use of force. The police should be given the resources and training needed to be able to do their job without resorting to human rights violations in order to obtain ‘results’. It should be made clear during the training of all officials involved in the custody, interrogation or medical care of prisoners that torture is a criminal act.

Overcrowding and cruel, inhuman and degrading conditions of detention

- The introduction of concrete long term strategies for reducing the chronic overcrowding in the *Delegacia de Roubos e Furtos*, the *Delegacia de Tóxicos*, and other police stations in the state, adopting measures whereby both pre-trial detainees and convicted prisoners are held in conditions that meet international standards.
- There should be a clear and complete separation between the authorities responsible for detention and those responsible for the interrogation of detainees. This would allow an agency not involved in interrogation to supervise the welfare and physical security of detainees.

²⁹PERSPECTIVA, State Program for Social Recovery. Minas Gerais state government, 2001.

- The introduction of alternative sentencing legislation in December 1998 provides judges with a wider range of non-custodial measures. It is essential that when dealing with cases of minor or petty crime, judges should, when available, seek to issue alternative sentencing, avoiding incarceration wherever possible and appropriate.

Medical Problems

- Steps must be taken to provide the *Delegacia de Roubos e Furtos*, the *Delegacia de Tóxicos* and other police stations in Minas Gerais with adequate medical assistance.
- Detainees and prisoners should receive regular medical examinations performed by independent professionals under the supervision of a professional medical association.
- Decisions about a detainee or prisoner's health should be taken only on medical grounds by medically qualified people.

Corruption

- The highest authorities in the state of Minas Gerais should make a clear and unequivocal condemnation of the corruption which contributes to human rights violations within the penal system.
- As a measure to curb high levels of impunity and human rights violations the authorities should initiate full, prompt and impartial investigations into all allegations of corruption involving police officers working with detainees in police stations in Minas Gerais. The methods and findings of such investigations should be made public. Any officials suspected of involvement in corruption should be suspended from active duty during the investigation; officials responsible for acts of corruption should be brought to justice.

Inspection and monitoring

- Both the Brazilian federal and state governments should set up an independent, transparent and adequately resourced federal and state-level system of inspection for both police stations and prisons, to carry out both routine and unannounced inspection visits.

APPENDIX I

The contents (English language version) of a letter sent to the Governor of Minas Gerais, Itamar Cauterio Franco, on 21 November 2001.

Dear Governor,

Amnesty International is writing to your excellency to express concerns arising from a recent visit to the state of Minas Gerais. As Amnesty International was unable to confirm a meeting with representatives of the State government the organization would like to take this opportunity to formally raise certain questions. During visits to two police stations in Belo Horizonte Amnesty International witnessed conditions of extreme overcrowding and received consistent denunciations of the continued practice of torture and ill-treatment. The organization is addressing these concerns to your office as it has received reports that the failure of state authorities to address these issues has allowed the situation to dramatically worsen.

The visit took place in the context of a three week research mission to Brazil undertaken by delegates from the Americas Regional program at the International Secretariat of Amnesty International. The delegation met with state and federal authorities, representatives of the human rights community, members of the police forces, victims of human rights violations and their families, and made several visits to detention centres and police stations.

The mission ended with the launch of Amnesty International's report on torture in Brazil, "*Eles nos tratam como animais*", *Tortura e maus tratos no Brasil*' (AI Index: AMR 19/022/2001, October 2001) which focuses on the use of torture throughout the Brazilian criminal justice system (the report was sent to Your Excellency last month; should you require further copies, please contact the Americas Regional Program at the International Secretariat). The report was launched as an integral component of the organisation's two year worldwide campaign against torture, due to end in October 2002. The document is the culmination of several years of research and complements the report presented by the United Nations Special Rapporteur on Torture, Sir Nigel Rodley, earlier this year. The report also follows on from Amnesty International's previous work on conditions of detention and human rights violations within the penal system in Brazil, which is set out in "*Aqui ninguém dorme sossegado*" *Violações dos direitos humanos contra detentos* (AI Index: AMR 19/09/99, June 1999). A copy of this report is attached to this letter.

During Amnesty International's visit to Minas Gerais this year delegates, accompanied by representatives of the Pastoral Carcerária, visited two civil police stations, the Delegacia de Roubos e Furtos and the Delegacia de Tóxicos e Entorpecentes, in Belo Horizonte on 10 October. Amnesty International wishes to express its gratitude to both the Secretaria de Segurança Pública (Public Security Secretariat) of Minas Gerais for facilitating this visit and to the relevant police chiefs and staff for the courteous and open manner with which they received the delegation.

In "*Aqui ninguém dorme sossegado*" *Violações dos direitos humanos contra detentos*, Amnesty International expressed serious concern about the situation in the Delegacia de Roubos e Furtos following reports of torture that were communicated to delegates who visited in 1998. They were told that detainees

were often taken to a sort of bathroom on the ground floor where they were tortured with electric shocks, beatings and suspension from the parrot's perch, *pau de arara* ("*Aqui ninguém dorme sossegado*" *Violações dos direitos humanos contra detentos* p.20-21).

Despite assurances by the police chief that the practice of torture no longer exists, the delegation that visited the Delegacia de Roubo e Furtos last month was alarmed to receive consistent reports of torture and ill-treatment. Detainees referred to regular torture sessions involving beatings and electric shocks that take place in a tiled room on the ground floor of the building. In addition to this many prisoners reported that police often fire gunshots or hose water through the barred windows that lie at the rear of the cells.

Amnesty International would also like to express its concern at allegations that a longstanding member of staff at the Delegacia de Roubo e Furtos was involved in torture sessions that took place there in 1969. This staff member, who was reportedly present on the day of the delegation's visit, is named by the *Projeto Brasil Nunca Mais* as 'a person directly involved with torture'. Amnesty International is alarmed to note that methods of torture used in the Delegacia de Roubo e Furtos in 1969 are still said to be in regular use in 2001.

In the Delegacia de Tóxicos, Amnesty International again received consistent reports of torture from detainees in all cells, who reported that sessions take place in a room called the 'sala de reconhecimento'. Here they described being beaten on the joints of their arms and legs with a truncheon wrapped in rubber. A number of prisoners also reported being subjected to electric shocks and semi-asphyxiation with a plastic bag. As was the case with torture denunciations received in the Delegacia de Roubo e Furtos, detainees repeatedly denounced the same few police officials as torturers.

Amnesty International was further informed that after being tortured, detainees in the Delegacia de Tóxicos are frequently left naked and without food for several days in two unfurnished cells that they call the 'escuro'. Delegates did see two cells which are each sealed with a cast iron door that allows for no light or ventilation, matching the description given by most detainees. However, when representatives of Amnesty International and the Pastoral Carcerária asked police guards to unlock these cells, they found them to be full of beds, filing cabinets, mattresses and bicycles. The guards told the delegation that the rooms were used for storing property seized in raids. Amnesty International was impressed with the level of security provided for this material which was not the same for the large quantities of confiscated narcotics held at the delegacia. These are locked inside a 'normal' room within the police station, although some staff complained that this made the premises a possible target for attacks.

Amnesty International welcomes the commitment of the Human Rights Office of the public prosecutor's office to prosecute members of the security forces accused of torture. However, it appears that a combination of the limited resources available to the public prosecutor's office and a failure by the authorities to suspend those accused of practising torture from active duty, has allowed the use of torture to continue unabated.

Amnesty International was also particularly preoccupied by the chronic overcrowding in both the delegacias. On the day of the organisation's visit 437 detainees were being held in the Delegacia de Roubo e Furtos, which has an official capacity of 67. According to staff this means that each prisoner has an average of 60 square centimetres of space. In the Delegacia de Tóxicos the situation was worse; 280 detainees were held in a building designed to hold only 28, an excess of 1000%. The overcrowding

is so severe that between 45 to 55 detainees are held in the exercise area and an interview room. Neither of these places are designed for holding prisoners; they have no sanitary facilities and detainees must use plastic bottles and foil containers as substitutes for toilets.

In one cell a paraplegic man was forced to lie on the floor as his wheel chair could not be fitted into the cell. The exercise area is outdoors and offers no protection from the elements to any of those held within. On the night Amnesty International was present, the weather was cold and wet; the majority of detainees in this area were shivering and some informed Amnesty International that they were afflicted by illnesses which required specific medical treatment and could only worsen under such conditions. The remaining prisoners are crammed into filthy cells which have no light or ventilation except that which comes through the barred door. They are permitted to leave their cells for only one hour of exercise every 15 days and to receive one family visit a month.

Healthcare in both delegacias is extremely precarious at best - the majority of detainees interviewed suffered from illnesses such as scabies. The police chiefs informed Amnesty International that most medical supplies come from donations supplied by church organisations, and that it is often the police themselves who have to administer medical treatment, such as injections. In the Delegacia de Roubos e Furtos, a makeshift infirmary has been set up in one of the cells, but this provides no form of sanitation or comfort to the sick, and patients are forced to share the space with those in protective detention. In the Delegacia de Toxicos no such facility was visible. Detainees from the Delegacia de Roubos & Furtos enjoy no exercise facilities whatsoever, and only leave their cells once a week to allow police to search them.

Amnesty International received reliable reports that attempts to remedy the situation have consistently been blocked by the Secretariat for Justice and Human Rights. The organisation was informed by police chiefs in both stations, as well as by members of NGOs and members of the Human Rights Commission of the Legislative Assembly, that the Secretariat for Justice and Human Rights has consistently refused to accept transfers of detainees from police stations into the prison system. The Secretaria da Justica has reportedly stated that such transfers would lead to overcrowding, in contravention of the Lei de Execução Penal. Amnesty International would be grateful if Your Excellency could confirm whether this statement accurately reflects the position of the Secretaria da Justica, and if so, what measures are being implemented to address this problem.

Staff in the Delegacia de Roubos e Furtos, estimated that 200-220 of the prisoners had already been sentenced. In the Delegacia de Toxicos the number of detainees already sentenced was said by the police chief to be as high as 70%. This is in clear contravention of Article 84 of the Lei de Execução Penal, which states 'O preso provisório ficará separado do condenado por sentença transitada em julgado.' According to figures from the Secretaria de Segurança Publica that were shown to Amnesty International, while the prison population of Minas Gerais presently stands at around 4,000 there are about 14,000 detainees held in police stations throughout the state. Of these 14,000 over 9,000 have already been sentenced.

The use of police stations as *de facto* prisons has also hampered the work of the civil police on a day to day basis. Amnesty International was informed that in the Delegacia de Roubos e Furtos up to 80% of staff on duty can be occupied with the detainees at any given moment. The attention that police investigators are forced to dedicate to the detention facilities clearly hinders their investigative work, and could lead to the increased use of other methods, such as torture, as a means of attaining quick results.

In 1998 Amnesty International was informed by the former police chief responsible for the Delegacia de Roubo e Furtos that it was his intention to keep conditions as bad as possible in order to force the authorities to transfer prisoners into the prison system (*"Aqui ninguém dorme sossegado"*, *Violações dos direitos humanos contra detentos* p. 29). In 2001 it appears that this informal policy is still in place, given that conditions have worsened and the fact that both chiefs repeatedly stressed their inability to better the situation in the face of the failure of the Justice Secretariat to take condemned prisoners off their hands. In the Delegacia de Toxicos, prisoners told Amnesty International that corrupt police were making illegal profit out of this critical state of affairs by charging between three and four thousand Reais for transfers.

Amnesty International would like to express its grave preoccupation with the deteriorating situation in both delegacias visited, and calls upon the authorities in Minas Gerais to take action to address the following:

the inhuman conditions of detention which are largely a result of the extreme overcrowding in both delegacias;

the persistent and unrestrained practice of torture, the use of which appears entrenched in both delegacias;

the continued use of the Delegacia de Roubo e Furtos to hold both pre-trial and condemned prisoners, despite the decision handed down on 12 November 1999 by a judge in the Belo Horizonte criminal court (Vara de Execuções Criminais de Belo Horizonte) which ordered that the Delegacia should hold no more than 200 prisoners;

the continued contravention of Lei de Execução Penal by the Minas Gerais authorities in imprisoning pre-trial and convicted detainees together.

Amnesty International would be very grateful if your excellency could provide the organisation with information about what steps the Minas Gerais government wishes to take in order to address these issues. In the near future Amnesty International plans to include information collected during this visit to Minas Gerais in a public report.

Your Sincerely,

Susan Lee
Americas Regional Program Director

cc
Minister of Justice
Secretary of State for Human Rights
Minas Gerais Secretary for Public Security
Minas Gerais Secretary for Justice

APPENDIX II

Excerpts from the Report of the Special Rapporteur, Sir Nigel Rodley, submitted pursuant to Commission on Human Rights resolution 2000/3. Addendum. Visit to Brazil. 30 March 2001 E/CN.4/2001/66/Add.2

Chapter I. THE PRACTICE OF TORTURE: SCOPE AND CONTEXT, D. State of Minas Gerais, 1. Police stations (Paragraphs 65 & 66, page24).

65. On 3 September, the Special Rapporteur visited the police lock-up of the station in charge of theft and robbery cases in Belo Horizonte, in which 280 persons were currently held in 21 cells. They were said to be kept 24 hours a day in their cells. Once a month they were taken, after having been stripped naked and forced during the walk to keep their mouths wide open, for a sunbath in the courtyard while the cells were searched and sprayed with water, soaking all the prisoners' personal items, in particular blankets. Cells were allegedly searched on other occasions as well, up to twice a week. The delegado explained to the Special Rapporteur that this was considered to be necessary in view of the large number of attempted escapes and violent incidents occurring in this police lock-up. Every fortnight, detainees were reported to be allowed to receive visits for one hour, but only their parents were said to be authorized to visit them. No mattresses were present in the cells and detainees were thus sleeping on the bare concrete floor with dirty blankets that, according to them, they were not allowed to wash. At the back of each cell, a hole used both as a toilet and a shower was separated from the main part of the cell by sheets put up by the detainees themselves. Only cold water was said to be running from the basic tap used for the shower. The delegado was the first to complain about the rather bad conditions of detention and regretted that material and personnel resources had to be used for the lock-up rather than for criminal investigation activities, the primary function of the civil police.

66. Up to 18 persons were detained in one cell measuring approximately 20 square metres. Most of the detainees had already been sentenced. They explained to the Special Rapporteur that in order to be transferred to a prison, where conditions of detention were believed to be better, a certain amount of money (up to 3,000 reais) had to be paid to the head of the police lock-up. The delegado indicated that the Superintendent of the Penitentiary Organization was responsible for the transfers that were, however, made on his recommendation as head of the delegacia. Quite a number of detainees appeared to the Special Rapporteur to be in need of urgent medical attention and their cases were referred to the delegado who indicated that the necessary measures would be taken immediately. Finally, it must be noted that most of the detainees indicated that they had been beaten at the time of arrest and/or during interrogation (see annex).

Chapter II, PROTECTION OF DETAINEES AGAINST TORTURE. B. Criminal Investigations (Paragraph 100, Page 32):

100. During his visit to police stations, the Special Rapporteur noted that there seems to be a practice among the police of using the procedure for the investigation of heinous crimes rather than an equally applicable procedure for ordinary crime investigations to prevent bail 14 being granted, even though the indictment subsequently issued by the judge may be for a non-serious crime. For example, a number of persons detained said that they were under investigation for drug trafficking (article 12 of the Penal Code) whereas they claimed that they had been caught with a small quantity of a relatively non-harmful substance, such as a few grammes of marijuana, which should have led to a charge of drug possession

(art. 16). Similarly, there seems to be a tendency to charge a suspect with robbery (art. 157) rather than theft (art. 155). The former attracts a minimum sentence of more than four years, which means that bail cannot be granted, while the latter attracts a sentence of from one to four years and allows bail. A number of testimonies from detainees referred to petty crimes involving small sums and no serious threats to person or property. Still the police, prosecutors, or even judges were said to freely qualify theft as robbery to put petty criminals, who in many countries would not even receive a custodial sentence, in a person for long periods. Moreover, it is alleged that the police frequently coerce confessions to the more serious offence, even when a suspect is willing to confess to a lesser one. The law seems to act as an incentive to the police to extract confessions to crimes that may be more serious than those actually committed. This tendency seems also to be reinforced by constant calls from the public and politicians for stricter measures to be taken against criminals.

This policy not only results in a substantial level of unnecessary deprivation of liberty, but also contributes to the overcrowding problem. This policy seems to be supported by statistics provided by the São Paulo State Secretariat for Penitentiary Administration: as of 31 October 2000, 50 per cent of prisoners had been convicted of robbery while only 8.75 per cent for theft. Similarly, according to the Governor of the State of Minas Gerais, more than 40 per cent of detainees in the state have been sentenced for drug trafficking while NGOs and law practitioners pointed out that most had only been caught with a very small quantity of drugs (mostly marijuana) believed to be for their own consumption.