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LOS DERECHOS CIVILES Y POLÍTICOS, EN PARTICULAR
LAS CUESTIONES RELACIONADAS CON LA TORTURA
Y LA DETENCIÓN

Informe del Relator Especial, Sir Nigel Rodley, presentado
de conformidad con la resolución 2000/43 de
la Comisión de Derechos Humanos

Adición

Visita al Brasil

* El presente informe se distribuye en español e inglés únicamente. El anexo se distribuye sólo en inglés.

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INTRODUCCIÓN

1. En respuesta a una solicitud del Relator Especial hecha en noviembre de 1998, en mayo de 2000 el Gobierno del Brasil lo invitó a que efectuara una visita al país para determinar los hechos en el marco de su mandato. El objeto de la visita, que tuvo lugar del 20 de agosto al 12 de septiembre de 2000, era permitir al Relator Especial reunir información de primera mano de muy diversas fuentes a fin de evaluar mejor la situación con respecto a la tortura en el Brasil y poder recomendar al Gobierno una serie de medidas con el fin de ayudarlo a cumplir su compromiso de poner fin a los actos de tortura y otras formas de malos tratos.
2. Durante su misión, el Relator Especial visitó los siguientes Estados: el Distrito Federal de Brasilia, São Paulo, Rio de Janeiro, Minas Gerais, Pernambuco y Pará. En Brasilia, se reunió con las siguientes autoridades: el Presidente de la República Federativa del Brasil, Excmo. Sr. Fernando Henrique Cardoso; el Ministro de Justicia, Dr. José Gregori; el Secretario de Estado de Derechos Humanos, Embajador Gilberto Vergne Saboia; la Secretaria Nacional de Justicia, Sra. Elisabeth Süssekind; el Secretario General del Ministerio de Relaciones Exteriores (Ministro en funciones), Embajador Luis Felipe de Seixas Correa; el Presidente del Supremo Tribunal Federal, Ministro Carlos Mário da Silva Velloso; el Presidente del Tribunal Federal de Apelación, Sr. Paulo Roberto S. da Costa Leite; el Procurador General de la República, Dr. Geraldo Brindeiro; el Presidente de la Comisión de Derechos Humanos de la Cámara de Representantes, Sr. Marcos Rolim, varios miembros de la Comisión y el Presidente de la Subcomisión para la Prevención y el Castigo de la Tortura, Sr. Nilmario Miranda; la Fiscal General para los Derechos de los Ciudadanos, Sra. Maria Eliane Menezes de Farias, y algunos fiscales del Centro contra la Tortura (Núcleo contra tortura) de la Fiscalía del Distrito Federal.
3. En la ciudad de São Paulo (Estado de São Paulo), se reunió con las siguientes autoridades: el Gobernador, Sr. Mario Covas; el Secretario de Estado de Seguridad Pública, Sr. Marco Vinicio Petrelluzzi; el Secretario de Estado de la Administración Penitenciaria, Sr. Nagashi Furukawa; el Secretario de Estado encargado del Desarrollo Social, Sr. Edson Ortega Marques, y algunos de sus colegas empleados en la Fundación Estatal para el Bienestar del Menor (Fundação Estadual para o Bem Estar do Menor - FEBEM); el Secretario de Estado de Justicia, Sr. Edson Vismona; el Ayudante Especial de la Oficina de Derechos Humanos de la Fiscalía General, Sr. Carlos Cardoso de Oliveira Júnior; el Jefe de la Policía Civil, Sr. Ruy Estanislau Silveira Mello; el Defensor adscrito a la Policía (ouvidor), Sr. Benedito Domingos Mariano; el Jefe de la Policía Militar, Coronel Luiz Carlos de Oliveira Guimarães, y el Presidente del Tribunal de Apelación, Sr. Marcio Martins Bonilha. En Rio de Janeiro (Estado de Rio de Janeiro), se reunió con las siguientes autoridades: el Gobernador, Sr. Anthony Garotinho; el Secretario de Estado de Justicia, Sr. João Luis Duboc Pinaud; el Secretario de Estado de Seguridad Pública, Coronel Josias Quintal; el Coordinador de la Seguridad Pública, Coronel Jorge da Silva; el Director de Asuntos Internos (corregedor) de la Policía Civil, Dr. José Versillo Filho; el corregedor de la Policía Militar, Coronel José Carlos Rodrigues Ferreira; el ouvidor externo de la Policía Civil y Militar, Dr. Celma Duarte; el Procurador General, Dr. José Muños Piñeiro, y el Presidente del Tribunal de Justicia, Sr. Humberto de Mendonça Manes. En Belo Horizonte (Estados de Minas Gerais), se reunió con: el Gobernador, Sr. Itamar Franco; la Secretaria de Estado de Justicia, Dra. Angela Maria Prate Pace; el Secretario de Estado de Seguridad Pública, Dr. Mauro Ribeiro Lopes; el corregedor de la Policía Militar, Sr. José Antonio de Moraes; el corregedor de la Policía Civil, Sr. José Antonio Borges; el Comandante General de la Policía Militar, Coronel Mauro Lucio Gontijo, y el

Subsecretario de Derechos Humanos, Dr. José Francisco da Silva. En Recife (Estado de Pernambuco), se reunió con: el Gobernador, Sr. Jarbas de Andrade Vasconcelos; el Secretario de Estado de Justicia, Sr. Humberto Vieira de Melo; el Director del Sistema Penitenciario, Sr. Geraldo Severiano da Silva; el Director de la Fundación de Apoyo al Niño y al Adolescente (FUNDAC), Sr. Ivan Porto; el Secretario de Estado de Protección Social, Sr. Iran Pereira dos Santos; el Jefe de la Policía Civil y corregedor de la Policía Civil y Militar, Sr. Francisco Edilson de Sé; el ouvidor de la Policía Civil y Militar, Sr. Sueldo Cavalcanti Melo; el Presidente del Tribunal de Justicia, Sr. Nildo Nery dos Santos, y el Procurador General, Sr. Romero Andrade. En Belém (Estado de Pará), se reunió con: el Presidente del Tribunal de Justicia, Magistrado José Alberto Soares Maia; el Fiscal General, Sr. Geraldo Rocha; la Secretaria de Estado de Justicia, Sra. Maria de Lourdes Silva da Silveira; el Secretario de Estado de Seguridad Pública, Sr. Paulo Sette Câmara; el Superintendente del Sistema Penitenciario, Sr. Albério Sabbá; el Jefe de la Policía Civil, Sr. Lauriston Luna Gáes; el Jefe de la Policía Militar, Capitán Jorgilson Smith, y el ouvidor de la policía, Sra. Rosa Rothe. En cada Estado, se reunió también con miembros de la Comisión de Derechos Humanos de la Asamblea Legislativa.

4. El Relator Especial también se entrevistó con personas que al parecer habían sido o tenían familiares que habían sido víctimas de tortura u otros malos tratos, y recibió información verbalmente o por escrito de organizaciones no gubernamentales, como: el Centro de Estudios de la Violencia (Núcleo de Estudos da Violência), el Centro de Justicia Global (Justiça Global), la Oficina de Asistencia Judicial para Organizaciones Populares (GAJOP), el Movimiento Nacional de Derechos Humanos, Acción Cristiana para la Abolición de la Tortura (ACAT), el Grupo Tortura Nunca Mais, la Organización de Pastoral Carcelaria (Pastoral Carceiraria) y la Comisión Pastoral de la Tierra (Comissão Pastoral de la Terra). Por último, se entrevistó también con abogados y fiscales, incluso los fiscales encargados de los menores delincuentes en São Paulo.

5. En todas las ciudades, salvo Brasilia, el Relator Especial visitó calabozos de la policía y centros de detención preventiva y de menores, así como prisiones. Con respecto a los establecimientos de detención, si bien no forma parte de su mandato describir y analizar exhaustivamente las condiciones de detención, el Relator Especial aprovechó su estancia en el Brasil, al igual que en sus visitas a otros países, para visitar algunos de dichos establecimientos, principalmente a fin de entrevistarse con personas que pudieran declarar cómo habían sido tratadas en ellos antes de ser trasladadas a un centro de detención preventiva o a una prisión. Sin embargo, antes de su visita el Relator Especial recibió información según la cual las condiciones de detención causaban tortura y, por consiguiente, no pudo pasar por alto este problema. En la primera parte del presente informe se hace una descripción de las condiciones existentes en los diversos lugares de detención.

6. El Relator Especial desea agradecer al Gobierno de la República Federativa del Brasil su invitación. También desea agradecer a las autoridades federales y estatales la plena colaboración que le prestaron durante su misión, que tanto facilitó su tarea. Expresa su gratitud al Representante Residente del Programa de las Naciones Unidas para el Desarrollo y a su personal por el apoyo logístico y de otra índole que le dispensaron.

I. LA PRÁCTICA DE LA TORTURA: ALCANCE Y CONTEXTO

A. Cuestiones generales

7. En el transcurso de los últimos años (véanse E/CN.4/1999/61, párrs. 86 y ss., y E/CN.4/2000/9, párrs. 134 y ss.), el Relator Especial ha comunicado en varias ocasiones al Gobierno que había estado recibiendo información según la cual la policía golpeaba y torturaba sistemáticamente a los sospechosos para obtener información, confesiones o dinero. Al parecer, el problema de la brutalidad policial, en el momento de la detención o durante los interrogatorios, era endémico. Supuestamente, el hecho de que no se investigue, enjuicie o castigue a los agentes de policía que cometen actos de tortura ha creado un clima de impunidad que fomenta la continuación de la violación de los derechos humanos. El Relator Especial también ha transmitido información sobre las condiciones carcelarias, que al parecer eran notoriamente severas. Según se informaba, todo el sistema penitenciario estaba afectado por graves problemas de hacinamiento, con lo que los disturbios en los centros carcelarios eran habituales y los guardias de las prisiones hacían un uso excesivo de la fuerza. A pesar de que en el ordenamiento interno existan disposiciones adecuadas para salvaguardar los derechos humanos de los detenidos, al parecer una combinación de corrupción, falta de capacitación profesional de los guardias y ausencia de directrices oficiales y de un control eficaz de los abusos ha dado lugar a la actual crisis del régimen penitenciario. También se creía que los funcionarios de prisiones, que al parecer aplican "castigos" colectivos ilegales, utilizan la tortura como medio de castigo.

8. En su informe inicial sobre la aplicación de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes, el Gobierno reconoció que "[l]a existencia de una ley que tipifica la tortura como delito y las disposiciones del Gobierno federal y de algunos gobiernos estatales para erradicar este delito y evitar que se imponga un trato inhumano a los presos son iniciativas que están cambiando paulatinamente el estado de la cuestión en el Brasil. La persistencia de esta situación significa que los agentes de policía siguen recurriendo a la tortura para conseguir información y obtener por la fuerza confesiones, como medio de extorsión o castigo. El número de confesiones y delaciones obtenidas con torturas sigue siendo importante... En las comisarías las peticiones de asistencia médica, social o letrada de los detenidos, o de modificación de determinados aspectos de la rutina carcelaria, no siempre son bien acogidas por los funcionarios o los agentes de policía. Hay que notar que son corrientes las represalias en forma de torturas, apaleamiento, privaciones u otras humillaciones infligidas a los presos... Muchos de esos delitos quedan impunes porque existe un fuerte sentimiento de solidaridad profesional en la policía y una gran resistencia a investigar y castigar a los agentes implicados en la práctica de la tortura... La falta de formación de los agentes de policía y de los funcionarios de prisiones para hacer su deber es otro aspecto importante que explica la persistencia de la tortura"¹.

9. Durante su misión, el Relator Especial recibió información de fuentes no gubernamentales y un gran número de declaraciones de presuntas víctimas o testigos de torturas, de las cuales se

¹ Informe inicial sobre la aplicación de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes presentado por el Gobierno del Brasil (CAT/C/9/Add.16), párrs. 80, 82 y 83, sin publicar en el momento de redactar el presente informe.

ha reproducido una selección en el anexo al presente informe, en que se indicaba que la tortura era un hecho generalizado y, en la mayoría de los casos, afectaba a personas de los estratos sociales más bajos o descendientes de africanos o miembros de grupos minoritarios. Cabe señalar que muchos detenidos temían represalias por haber hablado con el Relator Especial y que, por consiguiente, un importante número de ellos se negaron a hacer públicas sus declaraciones. Las técnicas que al parecer se utilizaban con más frecuencia eran el apaleamiento con las manos, con barras de hierro o garrotes o con una palmatória (un trozo de madera plano y grueso parecido a una cuchara de gran tamaño, que, según parece, se utilizaba para golpear a los esclavos en la palma de la mano y en la planta de los pies); técnicas conocidas como telefone, que consiste en dar de golpes a la víctima en una u otra oreja, o en ambas a la vez, y pau de arara (percha del loro), que consiste en golpear a una víctima que ha sido colgada por los pies; la aplicación de corrientes eléctricas en varias partes del cuerpo, incluidas las partes genitales, o la introducción de la cabeza de la víctima en bolsas de plástico, a veces llenas de pimienta. Según parece, el objeto de esos actos era hacer firmar una confesión a los detenidos u obtener el pago de sobornos, o castigar o intimidar a los sospechosos. Según se informa, el ser descendiente de africanos o el pertenecer a una minoría o a un grupo marginado, y en particular el reunir varias de estas características, hace que los agentes del orden sospechen mucho más fácilmente que una persona ha cometido algún delito.

10. El Presidente del Brasil indicó que su Gobierno tenía previsto aplicar un plan global de seguridad pública. Sin embargo, el Relator Especial señala que a menudo sus interlocutores oficiales se valían de la lucha contra las altas tasas de delincuencia para explicar, e incluso justificar la dureza de los agentes del orden que, según se decía, tenían que hacer frente a delincuentes violentos con pocos recursos. Así pues, se consideraba que el propósito de las políticas de seguridad pública era la represión, a veces al parecer sin límites definidos, más que la prevención. Con frecuencia se destacó la necesidad de mitigar la sensación general de inseguridad pública, sensación que redundaba en la constante demanda por parte de la población de medidas siempre más enérgicas y represivas contra los sospechosos de haber cometido un delito. Se afirmaba además que los medios de comunicación también eran responsables en parte de ese sentimiento de inseguridad que reinaba entre la población. A este respecto, las fuentes del Relator Especial, en particular las organizaciones no gubernamentales, decían que debía mejorarse seriamente la educación en materia de derechos humanos de toda la población.

11. Para facilitar la consulta, la presente sección comienza con una descripción detallada de los lugares de detención visitados por el Relator Especial durante su estancia en los siguientes Estados: São Paulo, Rio de Janeiro, Minas Gerais, Pernambuco y Pará. Se subdivide en las siguientes categorías de lugares de detención: comisarías y calabozos de la policía, centros de detención preventiva, prisiones y centros de detención de menores. El Relator Especial no visitó ningún lugar de detención en el Distrito Federal de Brasilia, ya que se habían formulado pocas denuncias respecto del mismo. Análogamente, había recibido poca información en la que se acusara de tortura a los agentes del orden federales. En todos los lugares de detención que visitó el Relator Especial, con la excepción de la prisión de Nelson Hungria en Minas Gerais, el principal problema era el hacinamiento, que, junto con unas construcciones inadecuadas y a menudo en grave estado de deterioro, la falta de higiene, la falta de atención de la salud y la mala calidad o incluso la insuficiencia de los alimentos, hacía que las condiciones de detención fueran infrahumanas, como ya habían advertido varias autoridades. Según las organizaciones no gubernamentales, esas condiciones no pueden atribuirse simplemente a la falta de recursos

económicos o materiales, sino que también son resultado de políticas deliberadas o de un grave desinterés por parte de las autoridades pertinentes. Sin embargo, el Relator Especial señala que varios de sus interlocutores oficiales, en particular los jefes de las comisarías de policía (delegados), se quejaron de la durísima situación que debían enfrentar, en su opinión, a causa de la falta de recursos. La mayoría de ellos lamentaban tener que mantener a seres humanos en semejantes condiciones. Además, como indicó el delegado de la comisaría de robos y hurtos de Belo Horizonte, debido a que la mayoría de los detenidos permanecen en las comisarías y no en centros de detención preventiva o prisiones, los agentes de policía se ven obligados a comportarse como guardias y no como investigadores, en tanto que sus principales funciones y formación están relacionadas con la investigación.

12. Varios delegados, así como directores de centros de detención preventiva y prisiones, señalaron a la atención del Relator Especial que el hacinamiento, junto con la falta de recursos humanos, provocaba con frecuencia fuertes tensiones entre el personal y los detenidos, intentos de fuga y motines a menudo violentos que sólo se podían enfrentar con el uso de la fuerza. Así pues, el duro trato al que supuestamente se sometía a los detenidos estaba justificado, a juicio de algunas autoridades, por la necesidad del personal de controlar a los reclusos y de mantener el orden en los lugares de detención. Cabe señalar que, en varias ocasiones, el Relator Especial recomendó a las autoridades interesadas que adoptaran medidas inmediatas para garantizar que los detenidos recibieran un tratamiento médico adecuado.

13. Según parece, las palizas también se usan con frecuencia para castigar a los reclusos que pretendidamente no han respetado las normas internas de disciplina. A menudo se llama a unidades especiales de policía para que restablezcan el orden y la seguridad, en cuyo caso el uso excesivo de la fuerza es habitual. En muchas denuncias se mencionó que los miembros de las unidades especiales iban encapuchados y utilizaban garrotes, barras de hierro y alambre. Al parecer, el apaleamiento también se producía en la noche, después de un motín o un intento de fuga, a modo de castigo. Según se informa, el traslado a otro lugar de detención suele ir acompañado de una paliza por parte de los guardias en el momento de llegar, como una forma de indicar a los recién llegados quién manda. Según parece, se obliga a los detenidos a pasar crujía entre filas de guardias y personal de seguridad que los patean y golpean, a menudo con palos y cadenas, mientras recitan las normas internas de disciplina (una técnica conocida como crujía polaca, corredor polonês). Según la información recibida, la violencia entre reclusos es frecuente en los calabozos de la policía y las prisiones. El hecho de que los reincidentes condenados por delitos violentos permanezcan junto a personas declaradas culpables por primera vez de un delito leve, las duras condiciones de detención, la falta de supervisión eficaz debido a la escasez de personal de seguridad, la falta de actividades para los detenidos y la gran cantidad de armas introducidas en los lugares de detención, al parecer con la complicidad de la policía o del personal penitenciario, se consideran los principales factores de esa violencia. En algunos casos, se afirmó que era condonada e incluso fomentada por las autoridades públicas responsables de esos lugares.

14. En cuanto al grado de responsabilidad, según las organizaciones no gubernamentales, algunos de los miembros del personal de seguridad inculpatos actúan por ignorancia y otros por pura costumbre, ya que por mucho tiempo se han comportado de ese modo sin temer ninguna consecuencia, en particular durante el régimen militar (1964-1985). Sin embargo, las organizaciones no gubernamentales reconocieron la voluntad del Gobierno federal y de algunos gobiernos estatales de poner fin a esas prácticas, aunque las medidas adoptadas todavía se

acogiesen con cautela. De hecho, señalaron a la atención del Relator Especial que el uso de por lo menos un cierto grado de violencia contra los sospechosos de quebrantar la ley parece estar socialmente aceptado e incluso se defiende, ya que el propio concepto de los derechos humanos se considera una forma de proteger a los delincuentes. Según varias fuentes no gubernamentales y algunas oficiales, la población por lo general tiene la impresión de que los detenidos o presos merecen ser maltratados y permanecer reclusos en malas condiciones. Así pues, se consideraba que las autoridades políticas se veían presionadas a luchar contra la delincuencia por cualquier medio y no tanto a combatir la tortura.

15. El Presidente del Brasil expresó su compromiso y el de su Gobierno de defender los derechos humanos y su determinación de abordar el problema de la tortura. En particular, indicó que se estaban realizando importantes esfuerzos para construir nuevos centros de detención con miras a reducir el hacinamiento, si bien reconoció que demasiadas personas eran detenidas y encarceladas innecesariamente. Del mismo modo, el Presidente del Supremo Tribunal reconoció la necesidad de que se prestara una mayor atención al problema de la tortura y señaló que todos los jueces recibían formación en materia de derechos humanos.

B. Estado de São Paulo

1. Comisarías

16. El Relator Especial visitó varias comisarías. En todas ellas, el principal problema era el hacinamiento. Por ejemplo, las celdas de la comisaría del 50º distrito acogían cinco veces más de su capacidad. En todas las comisarías visitadas los detenidos vivían en condiciones infrahumanas, en celdas muy sucias y malolientes, sin la iluminación ni la ventilación adecuadas. En la mayoría de las celdas, la humedad era insoportable. Los detenidos tenían que compartir delgados colchones o dormir en el suelo de hormigón desnudo y a menudo tenían que dormir por turnos por falta de espacio. Los recién detenidos y los que ya llevaban algún tiempo estaban todos juntos; mientras algunos acababan de ser detenidos, otros estaban en prisión preventiva; muchos de ellos ya habían sido condenados, pero no podían ser trasladados por falta de cupo en las cárceles.

17. En todos los calabozos de las comisarías, el Relator Especial oyó las mismas declaraciones de los detenidos acerca de palizas con barras de hierro o garrotes o de haber sido sometidos al telefone, en particular durante los interrogatorios para obtener confesiones, después de los intentos de fuga o motines y para mantener la calma y el orden. Se explicó cómo se colocaban bolsas de plástico rociadas de pimienta sobre la cabeza de los detenidos con objeto de ahogarlos y un gran número de denuncias hablaban de descargas eléctricas.

18. El 26 de agosto, el Relator Especial visitó la comisaría del 50º distrito, donde había 166 personas detenidas en seis celdas con capacidad para un máximo de 30; según parece, diez días antes de la visita del Relator Especial habían acogido a más de 200. Algunas de esas personas habían pasado más de un año en esas celdas. Según le contaron, había cinco policías por turno para vigilar a todos los detenidos, lo que planteaba graves problemas de seguridad y orden. Según las autoridades, durante la semana anterior a la visita se habían producido cuatro intentos de fuga.

19. En una celda que medía aproximadamente 15 m² había 32 personas detenidas. Estas personas declararon que dormían por turnos en los seis delgadísimos colchones que tenían. Utilizaban un agujero como retrete y ducha. Parece ser que de lunes a viernes los dejaban salir de las celdas y les permitían utilizar el pequeño patio. Según la información recibida, los parientes y amigos de los detenidos eran humillados y acosados por los policías durante las visitas. Al parecer, los guardias también insultaban a los detenidos durante estas visitas. Se indicó que únicamente se autorizaban las visitas de parientes cercanos y que estaba permitido llevar exclusivamente alimentos básicos, como galletas y fideos.

20. El Relator Especial visitó la celda donde estaban detenidos los llamados seguros, es decir, los que supuestamente necesitaban ser protegidos de otros detenidos y por tanto se los alojaba por separado. La celda medía aproximadamente 9 m² y en ella había cinco camas. Albergaba a 16 personas. Algunos confirmaron que habían tenido peleas con otros detenidos mientras que otros no sabían por qué estaban en la celda de los seguros. Un detenido creía que tenía una enfermedad contagiosa. También se cree que algunos estaban detenidos en la celda de los seguros porque no podían pagar para estar en una celda normal. Al parecer, nunca salían de la celda, ni siquiera durante la visita de sus parientes.

21. En una oficina que se encontraba al lado de la que sería utilizada para los interrogatorios, según habían indicado los detenidos, el Relator Especial encontró varias barras de hierro similares a las que habían descrito las presuntas víctimas de apaleamiento. Los policías responsables explicaron primero que se trataba de elementos de prueba para indagaciones penales de la policía. El Relator Especial se declaró poco convencido por esta explicación pues no estaban etiquetadas. Entonces le explicaron que las utilizaban para controlar los barrotes de las celdas. Los detenidos indicaron al Relator Especial que cuando los guardias controlaban los barrotes golpeaban a los detenidos. En otra habitación del primer piso, el Relator Especial encontró otras barras de hierro. El delegado, que había llegado entretanto, dio al Relator Especial la misma explicación. Añadió que algunas de las barras habían sido confiscadas a detenidos que planeaban utilizarlas durante revueltas. El Relator Especial comprobó que algunos de estos instrumentos estaban realmente etiquetados, mientras que otros no lo estaban. Por último, encontró algunas capuchas idénticas a las descritas por los detenidos, por ejemplo con respecto al incidente del 9 de junio de 2000 (véase el anexo), así como un pequeño paquete de electrodos. Con respecto a estos últimos, el delegado afirmó que se utilizaban para soldar los barrotes de hierro estropeados por los detenidos. El delegado explicó que las capuchas se habían encontrado en las celdas, pero no pudo explicar para qué las podrían utilizar los detenidos.

22. La mayoría de los detenidos temía las represalias, en particular que los enviasen a la comisaría de Itacoa, donde creían que sus vidas correrían peligro debido a la violencia de otros reclusos, que al parecer recibían cuchillos, barras de hierro e instrumentos similares de los propios guardias. Los detenidos reconocieron también que desde la llegada del nuevo delegado en julio de 2000 habían cesado las palizas. Este último reconoció que era posible que algunos de los miembros de su personal siguieran utilizando la amenaza de enviar a los detenidos a la comisaría de Itacoa para poner orden.

23. El 27 de agosto, el Relator Especial visitó la comisaría del 11° distrito en Santo Amaro. En el calabozo había cinco celdas que medían aproximadamente 12 m² cada una y albergaban a 176 personas en aquel momento, es decir, más de 35 personas en cada celda. Estaban organizadas alrededor de un patio que medía aproximadamente 40 m² y en el que al parecer se

dejaba libres a los detenidos entre las 8.00 y las 18.00 horas entre semana. Cada una de las celdas contenía una ducha sencilla, es decir una tubería, y un agujero que se utilizaba como retrete, separado por una lámina de plástico que había sido colocada por los propios detenidos en un intento de tener un poco de intimidad. Al parecer, el agua se cortaba periódicamente. En una de las celdas los detenidos indicaron que no habían tenido agua durante tres días. El Relator Especial observó que una vez que todos los detenidos estaban sentados en sus respectivas celdas, no quedaba más espacio. Los detenidos declararon que habían estado durmiendo por turnos. No había colchones.

24. Muchos de los detenidos tenían graves problemas de salud, que al parecer eran consecuencia del trato a que habían sido sometidos durante el interrogatorio. Uno de ellos había tratado de curarse, con la ayuda de sus compañeros, una herida de bala que, debido a la falta de tratamiento médico, se había infectado gravemente. Otro tenía el hombro derecho dislocado. De un tercero se decía que tenía tuberculosis y claramente estaba muy débil. Al parecer, las peticiones de asistencia médica no reciben respuesta de las autoridades policiales y a menudo provocan más palizas. Un gran número de detenidos se quejó también de enfermedades de la piel ocasionadas por las condiciones de detención. El Relator Especial observó que numerosos detenidos se negaban a hablarle por miedo a represalias. Cuando les pidió su nombre para comunicárselo al delegado a fin de asegurarse de que recibieran un tratamiento médico adecuado, algunos se negaron, también por miedo a represalias.

25. En los archivos, situados en el segundo piso, el Relator Especial encontró varias barras de hierro, algunas con mango de plástico, así como un gran machete. Una vez más le explicaron que habían sido confiscados a detenidos (a pesar de que no estaban etiquetados) o que se utilizaban para controlar los barrotes de las celdas.

26. El 27 de agosto, el Relator Especial visitó la jefatura de la DEPATRI (Departamento de Investigações sobre Crimes Patrimoniais), que constaba de varias unidades de investigación, con un solo calabozo común. Según parece, 2.000 policías dependen de la DEPATRI. Su calabozo está dividido en cuatro secciones, de las cuales únicamente una se seguía utilizando, porque al parecer las otras habían sido destruidas durante revueltas. La sección que se sigue utilizando se compone de cuatro celdas que miden aproximadamente 20 m² y en ese momento albergaban a 178 personas mientras que se suponía que tenían capacidad para 15 personas por celda. Como no hay un patio, los detenidos permanecían en sus celdas las 24 horas del día. La única luz natural procedía de una ventana situada al final del pasillo en el que se encontraban las celdas. Había 12 camas, por lo que los detenidos se veían obligados a dormir en el suelo de hormigón o por turnos. Una ducha de la que salía constantemente agua sucia y un agujero que hacía las veces de retrete estaban separados de la parte principal de la celda por una lámina de plástico colocada por los propios detenidos. En las paredes de las celdas y del pasillo se veían numerosos agujeros de bala, lo que concordaba con las alegaciones de que los policías habían disparado por encima de la cabeza de los detenidos en son de amenaza o para mantener el orden, especialmente después de las supuestas revueltas o intentos de fuga. A juicio del Relator Especial, la calidad de los alimentos era muy mala. Al parecer, únicamente estaban autorizadas las visitas de los parientes de sexo femenino, según las autoridades, por motivos de seguridad. Según la información recibida más tarde por el Relator Especial, las autoridades decidieron clausurar el calabozo de la DEPATRI a mediados de enero de 2001.

27. En la noche del 27 de agosto, el Relator Especial visitó la comisaría del segundo distrito, a la que al parecer se llevaba a los detenidos antes de comparecer ante los tribunales. Consistía en un largo pasillo de 1,5 m de ancho por 40 de largo alrededor de una plaza abierta. Como llovía, el pasillo estaba literalmente atestado de gente, muchos medio desnudos porque supuestamente les habían ordenado desvestirse. La delegada que estaba a cargo declaró que en ese momento había 188 detenidos, pero que a veces eran más de 220. El aire del pasillo era sofocante. Había basura en el suelo y en el patio y los cuatro retretes, que eran agujeros tapados por el excremento, daban al pasillo. El Relator Especial no pudo menos que notar el olor nauseabundo. Según la información recibida antes de su visita, la comisaría se limpiaba una vez por semana y al parecer había sido limpiada el día antes de la visita. Las paredes estaban cubiertas de agujeros de bala. Según la información recibida, de vez en cuando los guardias abrían fuego para atemorizar a los detenidos. Éstos declararon que, por tanto, era demasiado peligroso salir al patio, donde se encontraba el único grifo. La delegada confirmó que se prohibía a los detenidos salir al patio, pues a su juicio había un riesgo demasiado grande de que huyesen por el techo semiabierto formando una pirámide humana. Las autoridades indicaron que se trasladaba a los detenidos a esta comisaría para que estuviesen más cerca del tribunal.

28. A juicio del Relator Especial, unos detenidos que esperan comparecer ante el tribunal en estas condiciones infrahumanas únicamente pueden aparecer a los ojos del juez como malsanos y peligrosos. Muchos detenidos expresaron vergüenza ante la perspectiva de presentarse tan sucios y malolientes cuando los llevaran al tribunal. No entendían por qué tenían que ser llevados a esta comisaría antes de su comparecencia, en vez de llevarlos desde su calabozo directamente al tribunal. Creían, lo cual es comprensible, que esta humillación estaba destinada a excluir toda posibilidad de compasión por parte de los jueces. El Relator Especial observa con preocupación el comentario de un guardia quien, cuando se le dijo que los prisioneros temían las represalias si hablaban con el Relator Especial y su equipo, dijo a los detenidos que, como se habían portado bien esa noche, no sería necesario "hacerles nada".

2. Prisiones

29. El 25 de agosto, el Relator Especial visitó el centro de detención (Casa de Detenção) de Carandiru, donde había 7.772 presos en 9 pabellones. Al parecer, estaban separados según el delito por el que habían sido condenados. El centro de detención tenía capacidad para 3.500 personas, pero el director dijo que los propios presos, que habían construido nuevos camastros en sus celdas, habían aumentado esa capacidad. En los pabellones que visitó, el Relator Especial observó que las personas que habían cometido su primer delito y los reincidentes se encontraban juntos. Todos los presos se quejaron de la mala calidad de la comida, que se componía principalmente de una mezcla de pastas y arroz.

30. En el pabellón cuatro, el Relator Especial visitó las celdas de castigo situadas en el sótano, a las que se hacía referencia como la mazmorra. Las celdas miden aproximadamente 9 m² y contienen un camastro de cemento, un lavabo y un agujero que hace las veces de retrete. Al parecer, algunos presos habían recibido un colchón muy delgado y una sábana el día antes de la visita. En el momento de la visita, las celdas estaban oscuras, muy hediondas y sucias a pesar de que se estaba limpiando el pasillo principal, según los presos por primera vez en al menos 20 días. Celdas que estaban hechas para una persona albergaban de dos a cinco presos. La mayoría de ellos había pasado más de 20 días en estas celdas y no sabía cuánto iba a durar su castigo.

31. Algunos de los presos reclusos en estas celdas declararon que los estaban castigando por haberse negado a ser trasladados de su pabellón original, el número nueve, al ala en que se alojaba a los travestidos y violadores como castigo por pelearse entre ellos. Antes de ser enviados a las celdas de castigo, los habían golpeado brutalmente con barras de hierro y a algunos los habían obligado a firmar un papel en el que aceptaban el traslado. Tres presos aún tenían marcas visibles de tortura que concordaban con sus alegaciones. Se informó al Relator Especial de que a uno de ellos le habían roto la pierna con las palizas y lo habían trasladado, con otros dos heridos graves, horas antes de la visita del Relator Especial. Cuando el Relator Especial solicitó verlos, le dijeron que dos habían sido llevados ante el tribunal y que se esperaba que volvieran de un momento a otro y que el otro había sido trasladado al hospital de Mandaqui. Varias horas más tarde informaron al Relator Especial de que dos de los presos estaban en la Prisión de Alta Seguridad del Estado, donde tuvo ocasión de entrevistar a Marcelo Ferreira da Costa y Ronaldo Gaspar dos Santos, a pesar de que estaban conmocionados y aterrorizados ante la perspectiva de ser sometidos a represalias cuando se marchase el Relator Especial (véase el anexo). A la mañana siguiente, el Relator Especial visitó el hospital de Mandaqui para entrevistar al tercer preso. Al llegar, le dijeron que había sido devuelto a la Casa de Detenção la noche anterior a las 23.30 horas. Por fin, el 26 de agosto, el Relator Especial se entrevistó con Marcelo Miguel dos Santos, que estaba en una silla de ruedas (véase el anexo).

32. El Relator Especial también visitó las instalaciones del servicio médico situadas en el segundo piso del pabellón cuatro. Advirtió la exigüidad de los recursos médicos y la suciedad de las instalaciones, en particular su precariedad, pues un reducido equipo médico atendía a los enfermos. Según las enfermeras presentes, cualquier preso podía ir al servicio médico para recibir medicación si era necesario; los pacientes que necesitaban un tratamiento más especializado eran trasladados a un hospital.

33. En el pabellón cinco, el Relator Especial visitó el quinto piso, donde estaban detenidos los seguros. Es más corriente llamarlos los "amarillos" (amarelos) debido al color de su piel, la cual, por la falta de luz natural, palidece hasta el punto de ponerse realmente amarilla. Estos presos declararon que los dejaban salir de las celdas los domingos, pero únicamente si tenían visita, lo cual, para un gran número de ellos, era raro. Si no, permanecían encerrados en sus celdas todo el tiempo. Entre 10 y 15 presos vivían en 15 m², con colchones delgados y sucios en el suelo y un agujero como retrete y ducha. Las celdas estaban infestadas de insectos, lo que, según declararon, causaba picazón y enfermedades de la piel. Al parecer, algunos de los presos habían permanecido en estas celdas durante más de seis meses sin ver la luz natural. El Relator Especial observó que algunos de ellos padecían enfermedades mentales o estaban gravemente perturbados y muchos afirmaron que habían sido trasladados a esta sección de la prisión como castigo. Uno de ellos declaró que lo habían golpeado con barras de hierro por haber pedido tratamiento médico. En el momento de la visita del Relator Especial aún tenía marcas que concordaban con su declaración, sobre todo en la cabeza y los hombros. Otros dos, que presentaban señales de haber sido golpeados brutalmente hacía poco tiempo, se negaron a hablar con el Relator Especial por miedo a las represalias. Más tarde, se informó al Relator Especial de que el Secretario de Estado encargado del sistema penitenciario había decidido cerrar esta sección de la Casa de Detenção. Para mediados de enero de 2001, se informó de que 230 de los 300 reclusos habían sido trasladados a otra prisión en Sorocaba.

34. En el mismo pabellón, el Relator Especial visitó las celdas situadas en el mismo piso al otro lado del pasillo, donde se albergaba principalmente a los presos que no son católicos, al

parecer por petición propia. Había cuatro presos por celda y las celdas estaban limpias, provistas de colchones y, la mayoría de las veces, una cocinilla. Dos pisos más abajo, el Relator Especial visitó celdas en que había hasta ocho presos en más de 20 m². Estas celdas estaban limpias y tenían una ducha, un retrete y un lavabo separados. Cada persona tenía un colchón y algunos objetos personales. Los presos explicaron que disfrutaban de mejores condiciones porque trabajaban, pero no se explicó por qué habían sido seleccionados para llevar a cabo algunas labores manuales. Antes de su visita, el Relator Especial había recibido información según la cual los presos tienen que pagar por las celdas o alquilarlas por mediación de jefes de celda que se confabulaban con los guardias. El responsable de este pabellón desmintió categóricamente esta acusación. En este pabellón y en otros, los reclusos que vivían en las peores condiciones pudieron, sin embargo, indicar al Relator Especial el precio de celdas mejores.

35. Durante su visita a los diversos pabellones, el Relator Especial logró, en la mayoría de los casos gracias a las indicaciones de los presos, encontrar barras de hierro y garrotes, algunos de ellos con asas. En uno de los garrotes estaba escrito "te veré a las 19.30", que según le informaron es la hora a la que comienza el turno de noche. Algunas de las barras y garrotes se encontraron en la oficina (chefia) del responsable del pabellón cinco, detrás de un frigorífico, y en la oficina de los guardias en el pabellón cuatro, detrás de las cortinas. Las autoridades proporcionaron diversas explicaciones: eran trozos de muebles rotos, barras que se utilizaban para controlar los barrotes de las celdas o barrotes arrancados por los propios presos para utilizarlos como armas durante las revueltas.

36. Más tarde, informaron al Relator Especial de la intención del Secretario de Estado encargado del sistema penitenciario de dividir la Casa de Detenção en cuatro dependencias a cargo de cuatro directores distintos, que al parecer ya habían sido designados, con objeto de controlar mejor a los reclusos. Además, se cree que el pabellón cuatro pronto se convertirá en un hospital penitenciario.

37. El 26 de agosto, el Relator Especial visitó una de las tres penitenciarías de mujeres del Estado de São Paulo, la Prisão Feminina de Tatuapé, donde al parecer había 446 mujeres. Según parece, la prisión tiene capacidad para 600 personas, aunque la encargada de la seguridad, que estaba a cargo de la prisión en el momento de la visita del Relator Especial, declaró que el tope real debía ser de 450 personas. Señaló a la atención del Relator Especial el problema de la escasez de personal y de sus consecuencias en materia de seguridad. Se lamentó de que contaba únicamente con 20 guardias por turno debido al gran número de guardias que estaban de baja por enfermedad, en la mayoría de los casos a consecuencia de las duras condiciones de trabajo. Al parecer, la mayoría de los guardias eran mujeres, pero algunos eran hombres, entre ellos, sorprendentemente, el hijo de la Directora General. El día de la visita, 15 mujeres y 4 hombres estaban de guardia. Sólo tenían un vehículo para llevar a las presas a los tribunales, a otras prisiones o al hospital. Según parece, las mujeres no estaban separadas por edad o por delitos y trabajaban de las 7.00 a las 12.00 horas y de las 13.00 a las 17.00 horas por un salario de 115 reais al mes. Según las reclusas, en realidad recibían únicamente 60 reais. Había cinco en cada celda de 8 a 10 m² de superficie. Cada una de las celdas tenía colchones y un retrete, pues las duchas estaban separadas de las celdas. Las celdas estaban limpias y las presas habían realizado algunas mejoras básicas, por ejemplo colocar cortinas delante de los camastros para tener intimidad. El Relator Especial visitó la enfermería, donde se encontraba una reclusa que había dado a luz recientemente, la cual creía que le iban a quitar al bebé y no iba a verlo más.

38. El Relator Especial visitó las celdas de castigo (castigo), del pabellón dos, que eran similares a las demás celdas, salvo que no había retrete. Las presas declararon que las dejaban salir de las celdas según el capricho de los guardias. Algunas de ellas declararon que estaban "en tránsito", es decir, que las trasladaban, aproximadamente una vez al mes, a distintas penitenciarías, sin informar a sus parientes. En las desaseadas celdas de castigo del pabellón cinco, el Relator Especial se entrevistó con tres mujeres que compartían dos colchones. Al parecer, una mujer de 20 años había sido golpeada por el hijo de la directora, que también era guardia y tenía acceso a todas las secciones de la prisión en cualquier momento. Tenía señales de golpes (hematomas), en el hombro y la mano derechos, que concordaban con sus declaraciones. También creía que estaba "en tránsito" porque la habían trasladado de una prisión a otra todos los meses, lo que impedía a su familia visitarla. En otra celda, una joven reclusa se negó a hablar con el Relator Especial por miedo a represalias. No obstante, indicó a un miembro del equipo del Relator Especial que había sido agredida sexualmente por un funcionario de prisiones varón al que identificó, pero estaba demasiado asustada para autorizar a que el Relator Especial diese el nombre.

3. Centros de detención de menores

39. En el Estado de São Paulo, los menores están internados en instituciones bajo la jurisdicción de la Fundación Estatal para el Bienestar del Menor, responsable de la planificación y ejecución de los programas de detención de delincuentes juveniles bajo la supervisión de la Secretaría de la Asistencia al Desarrollo Social. Había alrededor de 4.000 menores internados como "medida socioeducativa", en virtud de lo dispuesto en el Estatuto del Niño y el Adolescente (Estatuto da Criança e do Adolescente, ECA).

40. El Relator Especial toma nota de que en octubre de 1999 fue demolida la institución Imigrantes de la FEBEM, donde permanecían detenidos todos los delincuentes juveniles en unas condiciones que, según informes recibidos antes de empezar la misión, equivalían a tratos o penas crueles, inhumanos o degradantes, en particular por la situación de hacinamiento². El Relator Especial pudo ver cintas grabadas en la institución que parecían confirmar los informes que había recibido. Por las noches, en el patio se golpeaba cruelmente a los presos semidesnudos, a veces con palos de gran longitud. Se afirma que tras la demolición de Imigrantes, algunos menores (aproximadamente 950, según un estudio no gubernamental de julio de 2000) fueron trasladados a distintas dependencias de otras cárceles, como el centro de observación criminológica (COC) de la cárcel de Carandiru, y las cárceles de Santo André y Pinheiros, infringiendo el Estatuto del Niño y el Adolescente, mientras que, al parecer, otros fueron trasladados a lugares específicamente concebidos para la detención de menores. Según las organizaciones no gubernamentales, los informes de la División Técnica Judicial y de la Secretaría de Salud señalaban que los lugares de detención de menores carecían de las más mínimas condiciones de higiene. Se ha informado también de que los menores no están separados por edades ni por tipo de delito, como establece el Estatuto. Según algunos fiscales encargados de la infancia y la juventud (Promotores de Justiça da Infância e da Juventude da Cidade de São Paulo), a estos menores no se les ofrecían oportunidades educativas ni recreativas.

² Según la oficina de los fiscales que tramitan casos de delincuencia juvenil, en la institución Imigrantes permanecían detenidos más de 1.400 jóvenes, aunque el centro tenía capacidad para 320.

En vano el departamento del ministerio público encargado de aplicar el Estatuto en el Estado de São Paulo presentó varias querellas judiciales por esos traslados. De hecho, amparándose en la seguridad pública, el Tribunal Supremo del Estado de São Paulo anuló las órdenes judiciales de instancias inferiores de cerrar las dependencias de la FEBEM. Se explicó al Relator Especial que diversos fiscales, concretamente los encargados de interponer recursos, están facultados para apelar el fallo ante el Supremo Tribunal Federal, pero que, al parecer, no estaban dispuestos a ello. Por otra parte, recientemente se habían inaugurado nuevas instituciones de la FEBEM, o estaba previsto construirlas en breve plazo para resolver la situación surgida tras la demolición de Imigrantes.

41. El Secretario de Asistencia Social indicó que, desde la desaparición de Imigrantes, se había iniciado un programa de construcción de instalaciones descentralizadas (para que los adolescentes estuvieran más cerca de la familia) y pequeñas (para separar a los adolescentes por edades y por el tipo de delito que fueran sospechosos de haber cometido o por el que se les hubiera condenado) como complemento de las 15 dependencias ya existentes. El Secretario reconoció que se trataba de un período de transición difícil, a menudo criticado, que exigía ingentes esfuerzos y en especial recursos financieros. Se planteó también la cuestión de la ubicación de las instituciones de la FEBEM, ya que los ciudadanos no querían que estuvieran en su vecindario. Al finalizar este proceso, habría ocho adolescentes por celda en dependencias de cinco celdas. Cada complejo de la FEBEM tendría dos o tres de estas dependencias. Una minoría de los adolescentes, los más peligrosos, seguirían ingresando en complejos de tipo penitenciario. El Secretario informó de que en 30 días estaba previsto dejar de usar como centro de detención de menores la cárcel de Pinheiros, que carecía de patio. Las prisiones de Franco da Rocha y Tatuapé también figuraban en la lista de centros de detención juvenil que iban a ser clausurados en un futuro próximo, pues no habían sido construidas para la detención de menores. Se señaló que se contrataría y capacitaría a nuevos guardias de prisiones (monitores). La profesionalidad había mejorado y seguía siendo un objetivo primordial de la FEBEM. Se informó también de que el trato de los delincuentes juveniles era una de las prioridades de las autoridades de São Paulo. Se explicó al Relator Especial que la FEBEM trataba a los menores delincuentes como adolescentes más que como criminales. El Secretario manifestó también su esperanza de que se dictaran más sentencias que no entrañaran la privación de libertad o que permitieran un régimen de reclusión abierta.

42. El Relator Especial recibió información sobre la Unidade de Atendimento Inicial de São Paulo, conocida como Braz, en que se clasificaba a todos los menores delincuentes antes de su traslado a las dependencias de la FEBEM. Se informó de que algunos menores permanecían semanas e incluso meses en condiciones de detención precarias (que el Relator Especial pudo ver en videocintas) hasta que se dictara sentencia. Al parecer, permanecían semidesnudos todo el día, sentados en el suelo de hormigón en completo silencio, con las manos en la nuca. Se señaló que los guardias golpean a los que no acatan la norma de silencio, y que las palizas y humillaciones son frecuentes.

43. Según las organizaciones no gubernamentales, en las instalaciones bajo la jurisdicción de la FEBEM se golpeaba o torturaba a tres menores cada día. Se señaló que las revueltas o intentos de fuga, que al parecer eran frecuentes, daban lugar a un excesivo uso de la fuerza y en particular que los guardias, a menudo enmascarados o encapuchados, golpeaban cruelmente a los reclusos con garrotes o barras de hierro y cables, y que se llamaba a unidades especiales para poner orden. Se afirmó también que la noche después de una revuelta seguía el apaleamiento

como represalia o castigo. Se expresó la opinión de que las palizas normalmente tenían lugar de noche, porque no estaban presentes ni empleados técnicos ni visitantes. También se dijo que tras las revueltas se encerraba a los reclusos durante varios días en grupos de más de 12 en celdas de castigo previstas para una sola persona. Se dijo también que en varias ocasiones se había negado la entrada a los familiares de los detenidos, especialmente después de una supuesta revuelta. Un gran número de reclusos entrevistados por el Relator Especial dijo que la mayoría de las veces los guardias provocaban las revueltas. Se informa de que a menudo los guardias del turno de noche llegan ebrios o drogados y golpean a los reclusos al azar. Al ingresar por primera vez en un centro de detención de la FEBEM, los menores tendrían que pasar corriendo por la llamada "crujía polaca". El Relator Especial recibió de las organizaciones no gubernamentales una lista cronológica de varios incidentes de presuntos abusos ocurridos desde octubre de 1999 en las instituciones de la FEBEM, algunos de los cuales se reproducen en el anexo.

44. El 24 de agosto, el Relator Especial visitó Franco da Rocha, una institución de la FEBEM en las afueras de São Paulo, en donde había unos 420 menores detenidos. Esta institución penitenciaria, construida con ese fin a principios de 2000, lleva abierta desde julio de 2000. Consta de cinco pabellones y las celdas rodean un patio, en el que, según los monitores, los reclusos pasan la mayor parte del día. Cuando el Relator Especial visitó algunos de los pabellones, observó que en el patio sólo había unos cuantos reclusos jugando y que la mayoría permanecía en las celdas. El director de Franco da Rocha explicó que, después de la revuelta del 10 de agosto, algunos reclusos debían permanecer encerrados el día entero para mantener el orden y restablecer la relación entre los monitores y los menores. No obstante, se afirmó que a la hora del desayuno, el almuerzo y la cena todos eran conducidos a una gran sala contigua al patio. Los reclusos indicaron al Relator Especial que cuando se aplicaba el régimen normal sólo podían salir de su celda entre media hora y dos horas al día.

45. Cerca de la enfermería, en la que en el momento de la visita del Relator Especial sólo se estaba tratando a un recluso (véase el anexo), el Relator Especial vio a cuatro reclusos conversando con los denominados empleados técnicos, que están encargados de los programas educativos, psicológicos y de asistencia letrada. Éstos indicaron al Relator Especial que cada uno tenía a su cargo a 70 reclusos y que sólo podían conversar con cada uno una vez a la semana. No obstante, el Relator Especial observa que, según los fiscales, era la primera vez que se llevaban a cabo estas actividades en Franco da Rocha. También observa que durante su visita un miembro de su delegación escuchó cómo un asistente técnico le contaba al jefe del programa educativo que uno de los monitores lo había amenazado. Según las organizaciones no gubernamentales, los menores son asignados constantemente a asistentes sociales distintos, los cuales pasan tan poco tiempo con ellos que no pueden llevarse a cabo verdaderas actividades de rehabilitación. Además, cabe observar que, tras cada revuelta, se traslada a un gran número de reclusos a otras instituciones de la FEBEM.

46. En cada celda había 12 tarimas de hormigón. De noche, se entregaba a cada recluso un colchón y mantas. Las celdas estaban bien ventiladas y bastante limpias. En cada una había una sección independiente, sin puerta, con dos duchas, dos retretes y tres grifos. Varios detenidos se quejaron de la calidad de la comida, que al Relator Especial le pareció deficiente. No se mencionaron problemas de hacinamiento en Franco da Rocha.

47. Como ya se ha señalado, los reclusos afirmaron que las revueltas solían provocarlas los guardias con sus golpes, una queja que supuestamente también han oído a menudo los fiscales y

los empleados técnicos. Estos últimos señalaron al Relator Especial que los monitores solían explicar que "se trataba de dejar claro quién mandaba en la institución: era ellos o nosotros". El director de Franco da Rocha reconoció que había un clima de mucha tensión y que los conflictos entre monitores y reclusos eran frecuentes y que la seguridad era una cuestión complicada. Sin embargo, rechazó todas las denuncias de apaleamiento y provocación por parte de los guardias. En relación con el motín de mediados de agosto, se informó de que el sistema de vídeo de Franco da Rocha había captado el incidente y así se podrían aclarar varias cuestiones aún no resueltas. El Secretario en funciones de la FEBEM dijo al Relator Especial que un equipo de investigación provisional estaba examinando las cintas.

48. El Relator Especial visitó cuatro pabellones y en cada uno pudo escuchar testimonios coincidentes acerca de palizas y ver las marcas de los golpes (véase el anexo). Un recluso le pidió que intercediera por él para que lo trasladaran a cualquier otra institución donde, a diferencia de Franco da Rocha, se golpeará a los detenidos "sólo si hacen algo malo". Los presos indicaron al Relator Especial los lugares donde los guardias guardaban las barras de hierro y los garrotes para golpearlos. Concretamente, dijeron que los tenían en unas pequeñas habitaciones que daban al patio en el primer piso del pasillo principal que comunica todos los pabellones. El Relator Especial pudo descubrir, ocultas bajo colchones y mantas, muchas barras de hierro y garrotes que coincidían con la descripción que habían hecho las presuntas víctimas. Supuestamente sorprendido por la presencia de estos instrumentos, el director de Franco da Rocha explicó que debían haber quedado allí tras la última revuelta y que los habían escondido los propios presos. No obstante, el Relator Especial observó que a las habitaciones en las que se habían descubierto los utensilios sólo podían entrar los monitores. Tras reconocerlo, el director dijo que, en su opinión, los habían escondido allí a propósito algunos de sus subordinados para dañar la imagen de la institución y el programa de rehabilitación que estaba poniendo en práctica. Dado que un gran número de presos de distintos pabellones había coincidido en que los garrotes y barras estaban en ese preciso lugar y que la mayoría de los presos tenían marcas que corroboraban sus afirmaciones, el Relator Especial dejó claro que tal explicación no era plausible. El director finalmente reconoció que no podía "justificar lo injustificable".

49. El último pabellón que visitó fue el pabellón G, en el que, al parecer, estaban los reclusos más peligrosos procedentes de la cárcel de Carandiru y los que iban a ser trasladados a otras instituciones de la FEBEM. El Relator Especial observó que había colchones en todas las celdas. Los reclusos dijeron que les habían puesto colchones por primera vez ese mismo día. Según los presos, hasta entonces habían tenido que dormir semidesnudos con mantas sucias en tarimas de hormigón. También se señaló a la atención del Relator Especial que, como mínimo, en una celda de este pabellón, de la ducha sólo salía agua literalmente hirviendo, por lo que era imposible lavarse. Cabe observar que en este pabellón la gran mayoría de los presos, cuando no todos, tenían marcas visibles, en su mayoría recientes, por todo el cuerpo, hasta la cabeza, que corroboraban las denuncias de palizas con barras de hierro y garrotes. Varios presos preguntaron al director en presencia del Relator Especial por qué los monitores los golpeaban sin que ellos los amenazaran o atacaran. Se dijo que los ataques, protagonizados por grupos de 30 a 50 monitores, que casi siempre llevarían la cara cubierta y, según se creía, solían estar ebrios o drogados, tenían lugar de noche y sin razón alguna. Una vez más, algunos presos dijeron al Relator Especial dónde se guardaban los garrotes y barras, con que los golpeaban. El Relator Especial pudo ver varios bastones y barras, que coincidían con los que habían descrito los presos,

escondidos bajo una mesa y cubiertos por una sábana en una sala para uso de los monitores a la que, como confirmó el director, sólo ellos podían entrar.

50. Al final de la visita, el Relator Especial entrevistó a dos menores que había visto el día anterior en la oficina de los fiscales encargados de la infancia y la juventud de la ciudad de São Paulo. Según la información obtenida, cuando fueron devueltos a Franco da Rocha con otros seis reclusos que habían estado con ellos en el ministerio público, los estaban esperando en el pasillo varios monitores y algunos trabajadores de Franco da Rocha a quienes no pudieron identificar como monitores. Según informaron, los golpearon cruelmente con barras de hierro y garrotes, y también les dieron de puñetazos y patadas, tras lo cual los habrían obligado a tomar una ducha fría, supuestamente para que no les quedaran marcas. Se dijo también que de noche unos 30 monitores enmascarados, a quienes los presos suelen llamar "ninjas", entraron a sus celdas y comenzaron a golpearlos a todos indiscriminadamente con barras de hierro. Según se dijo, a algunos los sacaron de las celdas para meterlos en un pequeño cuarto donde permanecieron hora y media a oscuras, con las manos en la nuca, y los amenazaron con volver a golpearlos. En el momento de la entrevista presentaban, especialmente en la espalda, marcas de golpes recientes que no tenían el día anterior cuando el Relator Especial los había entrevistado en la oficina de los fiscales. Cuando el Relator Especial hizo preguntas a los monitores acerca de esas marcas, respondieron que sin duda los propios reclusos se las habían hecho al enterarse de que el Relator Especial estaba visitando la institución. El Relator Especial no quedó satisfecho con esta explicación porque la naturaleza de las marcas, en particular los hematomas, indicaba que los presos no se las podían haber hecho dos horas antes.

51. Como tras cualquier visita a un lugar de detención, el Relator Especial pidió al director de Franco da Rocha que tomara medidas concretas para que no fueran objeto de represalias los menores que hubieran cooperado con él y su equipo. Dado que, como se creía, los menores con que había hablado el Relator Especial en la fiscalía ya habían sufrido represalias en forma de palizas por este motivo, el Relator Especial pidió al director que tratara el caso con la debida diligencia. Cabe observar también que había un gran número de reclusos que, por miedo a represalias, no querían ser convocados por el Relator Especial para una entrevista individual y confidencial al final de su visita. La mayor parte de ellos afirmó que, en cualquier caso, iban a ser golpeados por haber hablado con el Relator Especial después de que se fuera. El 28 de agosto de 2000, los fiscales encargados de la infancia y la adolescencia de la ciudad de São Paulo que habían acompañado al Relator Especial durante su visita a Franco da Rocha, le informaron de que, tras su partida, como mínimo tres menores a los que había entrevistado habían sido objeto de intimidación y represalias, comprensivas de apaleamiento, por parte de los monitores, algunos de los cuales presuntamente iban encapuchados. Además, se informó al Relator Especial de que, desde su visita, un gran número de menores, principalmente los que estaban detenidos en los pabellones G y H, que había visitado, habían permanecido encerrados en sus celdas el día entero. Se informó de que, cuando los fiscales pidieron al director que tomara medidas para garantizar el derecho a la integridad mental y física de los menores detenidos en esa institución, éste indicó que no podía controlar a todos sus subordinados porque tenía un gran número de menores a su cargo. El mismo día, el Relator Especial envió un llamamiento urgente a las autoridades federales y estatales competentes.

52. Cuando el Relator Especial regresó a Brasilia, las autoridades federales le informaron de que, inmediatamente después de recibir su llamamiento urgente, el Secretario de Estado de Derechos Humanos se había reunido en São Paulo con los altos funcionarios competentes.

En una carta de fecha 5 de septiembre de 2000 de la Misión Permanente del Brasil ante la Oficina de las Naciones Unidas en Ginebra, el Gobierno manifestó su honda inquietud por esos informes y su total determinación de investigarlos de inmediato. El Secretario de Estado encargado del Desarrollo Social indicó luego, en una comunicación por escrito enviada al Relator Especial, que se había iniciado una investigación administrativa. Se llevó a dos menores al Instituto de Medicina Legal, que dictaminó que no habían sido golpeados. Asimismo, se informó de que el director de Franco da Rocha había negado categóricamente las acusaciones y había afirmado que los adolescentes entrevistados por el Relator Especial y los fiscales habían organizado la revuelta del 10 de agosto. Más tarde, se informó al Relator Especial de que, a petición de los fiscales, se había trasladado a esos menores a otra institución de la FEBEM, de la cual se fugaron la misma noche en que llegaron tras tomar a algunos guardianes como rehenes. Se inició otra investigación de estos hechos. Por último, el Secretario de Estado indicó que se habían malinterpretado las supuestas declaraciones del director acerca de que no podía controlar a todos sus subordinados. Este incidente está siendo estudiado directamente por el Gobierno.

53. Por último, el Relator Especial se reunió con el presidente del sindicato de trabajadores de la FEBEM (Sindicato dos Trabalhadores de Entidades de Assistência ao Menor e a Família do Estado de São Paulo), quien explicó que durante meses el sindicato había estado advirtiendo a las autoridades de la FEBEM la explosiva situación en Franco da Rocha, pues las instalaciones no estaban concebidas como centro de reeducación, sino como una cárcel, y albergaban demasiados detenidos, especialmente si se comparaba su número con el de monitores y personal técnico. El presidente del sindicato estimaba que no debía recluirse en ese lugar a los condenados por delitos leves ni a los toxicómanos y señaló a la atención del Relator Especial que debido a las durísimas condiciones de trabajo en las instituciones de la FEBEM, tales como turnos de más de 24 horas y un alto grado de tensión, en particular durante los motines o los intentos de fuga, un gran número de trabajadores (más de 300) se habían dado de baja por depresión u otras razones de carácter psicológico y no habían sido reemplazados. Se reconoció también que algunos trabajadores pedían licencia por enfermedad durante largos períodos sin justificación alguna. Se informó también de que se acuciaba a los trabajadores que estaban de baja para que volvieran al trabajo pasado cierto tiempo, pues de lo contrario su salario se reduciría a la mitad. No obstante, el presidente del sindicato dijo que apoyaba los programas de rehabilitación y esperaba que pudieran ejecutarse como es debido. Según él, los monitores, que en la mayoría de los casos saben que va a producirse un motín, advierten a las autoridades de la FEBEM, que, al parecer, hacen caso omiso de sus advertencias.

C. Rio de Janeiro

1. Comisarías

54. El 31 de agosto, el Relator Especial visitó la primera delegacia legal que se estableció en el Estado de Rio de Janeiro en marzo de 1999. Las delegacias legais forman parte de un proyecto general de construcción de comisarías cuya concepción permite una supervisión externa. En opinión del Relator Especial, esta es una medida extremadamente positiva. No obstante, observó que la celda de 1,5 m², en que se supone que los detenidos permanecen sólo unas horas, no tenía luz. La falta de luz fue justificada por motivos de seguridad. Al parecer, en esa comisaría nadie había estado detenido más de 24 horas. Se dijo que hay cuatro comisarías como ésta en la ciudad de Rio de Janeiro y tres en el Estado. Según el Gobernador, se preveía que a

finales de 2000 estarían en funcionamiento otras 40 y al término del actual mandato administrativo, en 2002, todas las comisarías serían como ésta.

55. El mismo día, el Relator Especial visitó la comisaría del 54° distrito, de donde todos los detenidos fueron trasladados el 15 de agosto al Penal de Bangu o a la comisaría del 64° distrito, ya que aquélla fue convertida en delegacia legal. En la comisaría del 64° distrito, en el momento de la visita del Relator Especial había 272 personas detenidas, si bien se informó de que tenía capacidad para 150. Se afirmó que los detenidos podían salir de sus celdas durante el día y que pasaban la mayor parte del tiempo en un patio pequeño, con poca luz natural. En una celda muy calurosa, maloliente y sucia, que medía unos 30 m², había 57 personas. En el suelo había unos pocos colchones. Un agujero hacía las veces de retrete y ducha. El Relator Especial observó que la distribución de los detenidos por celda era dispareja. Los detenidos explicaron que tenían que pagar a los guardias para que los pusieran en las celdas con menos reclusos. La delegada justificó la distribución porque era necesario distribuir a los detenidos de acuerdo con la banda (de delincuentes) a la que pertenecían a fin de evitar que se pelearan. El Relator Especial señaló que durante el día todos los detenidos estaban juntos en el patio y que no había habido ninguna pelea. Entonces, la delegada se quejó del hacinamiento a causa de la falta de cupo en los penales. No obstante, también reconoció que nunca había entrado al calabozo.

56. La mayoría de los detenidos se quejó de golpes en el momento de la detención y en el curso del interrogatorio preliminar, cuando se les pide que firmen una confesión. Muchos de ellos denunciaron haber sido golpeados por agentes de policía tanto en esta comisaría como en la del 64° distrito, de la que procedía un gran número de ellos (véase el anexo). Varias denuncias se referían también a los custodios a los que, al parecer, los guardias facilitaban barras de hierro y garrotes o cachiporras y que mantenían el orden golpeando a los otros detenidos. Los detenidos indicaron que los custodios tenían los garrotes y barras en sus celdas, situadas a la entrada del calabozo frente a la oficina de los guardias. Estas dos celdas estaban muy limpias y bien amuebladas, con colchones y cocinillas, y otros objetos personales. El Relator Especial descubrió, escondida debajo de una de las camas, una cachiporra de goma y dos garrotes con asas, así como algunas barras de hierro. Cuando se interrogó al encargado del calabozo, respondió que los custodios usaban las barras de hierro para comprobar la solidez de los barrotes de las celdas. No se dio ninguna explicación en relación con las tres cachiporras. La delegada aseguró al Relator Especial que adoptaría las medidas necesarias y que investigaría la conducta del encargado del calabozo.

2. Un centro de detención preventiva

57. El 30 de agosto, el Relator Especial visitó la casa de custodia Muniz Sodré, uno de los centros de detención provisional del complejo penal de Bangu. En ese momento, había 1.577 detenidos en 24 celdas construidas para alojar a 62 personas cada una, es decir, un total de 1.488 detenidos. El local está dividido en dos grandes pabellones de 12 celdas cada uno. De acuerdo con el director, si bien Muniz Sodré es un centro de detención preventiva, en realidad aproximadamente el 40% de los reclusos estaba cumpliendo condenas que, en la mayoría de los casos, eran objeto de recurso y, por consiguiente, los detenidos debían haber sido trasladados a otros centros. El director, teniendo en cuenta la situación de hacinamiento en todo el Estado, indicó que no era posible saber cuándo se llevarían a cabo los traslados. No obstante, aseguró al Relator Especial que los presos condenados eran separados de los detenidos procesados.

58. El director indicó que se permitía a los detenidos salir de las celdas durante cuatro horas al día, por turnos, lo que luego negaron los detenidos entrevistados por el Relator Especial. Los detenidos afirmaron que sólo se les dejaba salir de la celda una vez a la semana, durante dos horas, cuando venían a visitarlos. Las celdas estaban limpias, bien iluminadas y ventiladas. Los retretes y las duchas eran independientes de la parte principal de la celda. En una de las celdas visitadas había 68 presos, lo que significaba que 6 tenían que dormir en el suelo. Todos los presos, sin embargo, tenían su propio colchón y mantas.

59. El Relator Especial visitó las celdas de castigo donde, de conformidad con el registro, había ocho detenidos en ese momento. En efecto, había ocho detenidos, semidesnudos, en condiciones muy precarias. La mayoría indicó que habían sido castigados por pelearse con otros detenidos y algunos se quejaron de que los guardias los habían golpeado cuando los llevaban a las celdas de castigo. Todos confirmaron que hacía poco se habían llevado de las celdas de castigo a una docena de detenidos que, al parecer, estaban en muy mal estado a consecuencia de los golpes que supuestamente habían recibido tras un intento de fuga.

60. El Relator Especial visitó luego las celdas de las que se suponía que procedían los detenidos castigados. Sus compañeros de celda dijeron que el 28 de agosto se había registrado la celda a raíz de un intento de fuga durante la noche del 26 al 27 de agosto. Dijeron no saber por qué se les había elegido a ellos, ya que no habían intentado fugarse. Tras el registro, algunos detenidos se quejaron de que les faltaban objetos personales. Se cree que a causa de estas quejas, supuestamente los habían pasado por una crujía polaca y llevado al patio, donde fueron golpeados brutalmente por unos 50 guardias, junto con miembros de las fuerzas especiales de la policía, con garrotes y barras de hierro, algunos de los cuales tenían atados cables, durante cinco o seis horas. Se dice que el director y subdirector responsables de la seguridad participaron en el apaleamiento. Uno de los detenidos resultó gravemente herido. El mismo día, tenía que comparecer ante el juez que, al parecer, dio la orden de hospitalizarlo. Los 70 detenidos en la celda tenían marcas visibles y recientes (contusiones, hematomas y rasguños en varias partes del cuerpo) que corroboraban sus denuncias. Afirmaron que se había sacado de la celda justo antes de la llegada del Relator Especial a cinco detenidos que, al parecer, estaban muy mal y cuyos nombres se facilitaron al Relator Especial. Los guardias dijeron que los detenidos habían sido trasladados al Instituto de Medicina Legal, pero que volverían a Muniz Sodré esa misma noche si había cómo llevarlos. El Relator Especial esperó durante varias horas, pero los detenidos no aparecieron. El director le aseguró que volverían a traer a los cinco detenidos.

61. Esa noche, el Relator Especial se entrevistó con cada uno de los cinco detenidos (Jailson Thaumaturgo da Rocha Junior, Alexandre Arantes, Flavio Ailton da Silva, Paulo Sergio Souza de Oliveira y Roberto da Costa Santiago), que confirmaron las denuncias hechas por sus compañeros. También confirmaron que habían sido examinados por médicos del Instituto de Medicina Legal en ausencia de guardias. Todos presentaban heridas graves, para algunas de las cuales hubo que tomarles puntos, y fuertes contusiones (véase el anexo). Por último, confirmaron que a uno de ellos, al que consideraban más gravemente herido, lo habían llevado al tribunal desde donde, al parecer, lo habían enviado al hospital. El Relator Especial pidió que el director localizase a ese detenido. Aproximadamente una hora más tarde, el director indicó que había sido trasladado al penal de Vieira Ferreira Neto. Según el director, lo habían llevado allí para evitar que fuera objeto de la violencia de otros reclusos. Para el Relator Especial, teniendo en cuenta lo que le habían referido los cinco compañeros de celda, que estaban extremadamente preocupados por su paradero y su estado, esta explicación del

traslado a otro centro de detención no era convincente. En el penal de Vieira Ferreira Neto, el Relator Especial pudo entrevistar a Alexandre Madado Pascoal (véase el anexo) que parecía estar muy, muy débil y tener dolores intensos, y confirmó que lo habían traído al penal esa noche, a eso de la medianoche. Con la ayuda diligente del encargado de Vieira Ferreira Neto, Alexandre Madado Pascoal fue trasladado en camilla a un dispensario, donde un médico, impresionado, dio la orden de hospitalizarlo. Informado de la situación por el Secretario de Estado de Justicia, el Subsecretario de Derechos Humanos y el jefe de seguridad del sistema penitenciario se reunieron con el Relator Especial a las 2.00 horas y tomaron declaración a Alexandre Madado Pascoal. Le aseguraron que recibiría tratamiento médico adecuado y que sería protegido contra posibles represalias. El Relator Especial también fue informado en ese momento de que el Secretario de Justicia ya había decidido destituir al director y al jefe de seguridad de Muniz Sodré mientras se hacía la investigación. El Relator Especial solicitó a las autoridades que adoptasen las medidas necesarias, entre ellas el inicio de una investigación penal de las denuncias de tortura. El Gobierno está muy interesado en la resolución de este asunto.

3. Un centro de detención preventiva para menores

62. Los menores delincuentes del Estado de Rio de Janeiro son internados en instituciones que dependen de la Secretaría de Justicia y, más concretamente, del Departamento General de Medidas Socioeducativas (Departamento Geral de Ações Socio-Educativas (DEGASE)). El 29 de agosto, invitado por las autoridades, el Relator Especial visitó el Instituto Padre Severino donde había 193 menores detenidos, en edades comprendidas entre los 14 y los 18 años, en un local con capacidad para 160. El director dijo que sólo había siete guardias por turno lo que, destacó, hacía difícil mantener el orden. Se informó de que la mayoría de los menores que estaban en esta institución estaban esperando ser enjuiciados o sentenciados. Se supone que Padre Severino es un centro de detención preventiva para menores y que se ha de utilizar para retener a los menores durante un período máximo de 45 días (véase más adelante) antes de trasladarlos a otras instituciones del DEGASE, si procede. No obstante, el director reconoció que en realidad el 40% de los detenidos estaba cumpliendo condena. Dijo que el 90% de los menores que estaban detenidos en ese momento tenía acceso a la educación, pero admitió al mismo tiempo que sólo los condenados tenían acceso a actividades educativas y recreativas. Durante su visita, el Relator Especial vio que algunos jóvenes tomaban clases en distintas aulas y tres estaban trabajando en un taller con máquinas de coser. Según las organizaciones no gubernamentales que realizan visitas periódicas a los centros de detención de menores, lo que luego fue confirmado por los menores entrevistados, esta era la primera vez que se daban esas clases en Padre Severino.

63. Las celdas están repartidas en dos pabellones separados por un gran patio, en que los menores estaban jugando en el momento de la visita del Relator Especial. En todas las celdas había tarimas de cemento para dormir. En algunas celdas, todas las tarimas tenían colchones delgados de espuma mientras que en otras la mayoría no los tenía. El director aseguró al Relator Especial que todos los detenidos, hasta los 33 que tienen que dormir en el suelo a causa del hacinamiento, disponían de un colchón por la noche. Los detenidos confirmaron que eran muy pocos los que no tenían colchón. Al Relator Especial también le mostraron unas pocas mantas sucias. Los retretes y las duchas por lo general estaban separados del dormitorio por una pared. Todas las celdas habían sido limpiadas hacía poco tiempo (según los detenidos, las limpiaban una vez a la semana), pero en algunas había un fuerte olor procedente de los retretes. Al parecer, los guardias controlaban el abastecimiento de agua, incluida la de los inodoros, desde fuera de

las celdas. En las celdas no había luz porque, como explicó el director, los reclusos utilizaban las tomas de corriente para encender cigarrillos, lo que podía ser peligroso. Todas las celdas estaban bien ventiladas, con numerosas aberturas en las paredes. Los detenidos se quejaron de que por la noche las celdas podían llegar a ser muy frías, pero estaba prohibido tapar las aberturas, por ejemplo, con periódicos. Al parecer, unas pocas noches antes de la visita del Relator Especial, un guardia había dado una bofetada y asido por el cuello a un menor como castigo por haber intentado taparlas. En el momento de la entrevista (29 de agosto), todavía se veían las marcas en el rostro del menor, en especial un hematoma del tamaño de una mano, y algunos rasguños en el cuello, lo que coincidía con sus denuncias.

64. Los menores, se informó, permanecían en el patio la mayor parte del día, desde las 5.00 hasta las 18.00 horas. Se dijo que sólo se permitían las visitas dominicales de los padres. Varios de los reclusos de más edad se quejaron de que sus esposas e hijos no tenían autorización para visitarlos. Muchos de los menores se quejaron de haber sido golpeados y abofeteados por los guardias, supuestamente por intentar huir, por pelear con otros reclusos o por no respetar las normas de disciplina internas, en especial el silencio durante la noche que, al parecer, incluía la prohibición de utilizar los retretes. Se afirmó que los guardias a menudo les preguntaban en qué parte del cuerpo preferían ser golpeados. Algunos llevaban todavía las huellas, principalmente hematomas en la cabeza y en la cara, los hombros y la espalda y también lesiones más graves, como heridas abiertas, lo que corroboraba las denuncias (véase el anexo). Algunos supuestamente habían sido amenazados con un arma por algunos de los guardias del turno de noche no hacía mucho. De acuerdo con la información recibida, algunos niños habían pasado hasta dos meses en las celdas de castigo en las que presuntamente quedaban encerrados las 24 horas del día. Tenían que usar el mismo colchón que uno o dos detenidos o más.

D. Estado de Minas Gerais

1. Comisarías

65. El 3 de septiembre, el Relator Especial visitó el calabozo de la comisaría que se encarga de robos y hurtos de Belo Horizonte, donde en ese momento había 280 personas detenidas en 21 celdas. Al parecer, permanecían encerradas en las celdas todo el día. Una vez al mes, después de haberlos desnudado y obligado a mantener la boca abierta por todo el camino, los sacaban al patio para tomar un baño de sol mientras que los guardias registraban y baldeaban las celdas, de modo que todos los objetos personales de los detenidos, en especial las mantas, quedaban empapados. Al parecer, las celdas también eran registradas en otras ocasiones, hasta dos veces a la semana. El delegado explicó al Relator Especial que esto se consideraba necesario habida cuenta del gran número de intentos de fuga y de los violentos incidentes que se producían en el calabozo. Se informó de que una vez cada 15 días se permitía a los detenidos recibir visitas durante una hora, pero sólo los padres estaban autorizados a visitarlos. En las celdas no había colchones y, por lo tanto, los detenidos dormían en el piso de hormigón con mantas sucias que, según ellos, no les permitían lavar. Al fondo de cada celda, un agujero servía a la vez de retrete y de ducha y estaba separado de la parte principal de la celda por sábanas colgadas por los propios detenidos. Se informó de que de la llave utilizada para la ducha sólo salía agua fría. El delegado fue el primero en quejarse de las condiciones bastante deficientes de detención y lamentó que hubiera que dedicar recursos y personal al calabozo y no a investigaciones penales, que son la función principal de la policía civil.

66. En una celda que medía aproximadamente 20 m² había hasta 18 detenidos. La mayoría de los detenidos ya habían sido condenados. Explicaron al Relator Especial que para poder ser trasladados a una cárcel, en que se suponía que las condiciones de detención eran mejores, había que pagar cierta cantidad de dinero (hasta 3.000 reais) al encargado del calabozo. El delegado indicó que el superintendente de la organización penitenciaria era responsable de los traslados que, sin embargo, se hacían por recomendación del jefe de la delegacia. En opinión del Relator Especial, un buen número de detenidos parecía necesitar atención médica urgente y remitió sus casos al delegado, que indicó que se adoptarían las medidas necesarias inmediatamente. Por último, debe observarse que la mayoría de los detenidos indicó que habían sido golpeados en el momento de la detención o durante el interrogatorio o en ambas oportunidades (véase el anexo).

67. El 4 de septiembre, el Relator Especial visitó la comisaría que se encarga de los casos de robo de vehículos (denominada DETRAN). Había 42 detenidos en 5 celdas. El delegado reconoció que las condiciones eran malas. En especial, los detenidos no podían salir de las celdas porque no había un patio. En una celda de unos 12 m² había hasta 9 personas que dormían directamente en el piso de hormigón. Un agujero, independiente de la parte principal de la celda por hojas de plástico colgadas por los detenidos, hacía las veces de ducha y retrete. El delegado indicó que el 30% de los detenidos ya habían sido condenados. El Relator Especial señala que varios detenidos se negaron a hablar por miedo a las represalias mientras que unos pocos denunciaron que habían sido golpeados durante el interrogatorio para hacerlos confesar.

68. El mismo día, el Relator Especial visitó el calabozo para mujeres de la comisaría principal, el departamento de investigación, de Belo Horizonte. Se cree que este es el único calabozo para mujeres de la ciudad. En el momento de la visita, había 104 mujeres en 8 celdas limpias. La mayoría de ellas ya habían sido condenadas y expresaron la esperanza de ser trasladadas en breve a un penal. Unas pocas se quejaron de haber sido torturadas, incluso de agresión sexual, supuestamente en el momento de la detención o durante el interrogatorio inicial (véase el anexo), y la mayoría reconoció que los agentes de policía, entre ellos los varones que a veces se encargaban del calabozo, las trataban bien. La mayoría de las denuncias se referían a la lentitud del proceso judicial.

2. Una cárcel

69. El 3 de septiembre, el Relator Especial visitó la cárcel Nelson Hungria que, en su opinión, es relativamente moderna y consta de 12 pabellones, en que los reclusos ocupan celdas individuales de 6 m². En cada celda hay una ducha y un retrete. Las celdas estaban limpias y tenían colchones y enseres personales, como un televisor y calentadores de agua. Tiene capacidad para 721 presos, pero en ese momento sólo había 701. Todos los reclusos trabajaban durante el día, excepto cinco, que según se informó se habían negado a hacerlo. Este fue el único establecimiento en que los reclusos no se quejaron de la calidad de la comida. El responsable de la cárcel en ese momento, es decir, el director de reeducación y reinserción social, explicó al Relator Especial que se había construido un pabellón hospital, pero que nunca llegó a funcionar por falta de personal médico. Sólo disponían de un médico y de una enfermera voluntaria para hacer el examen inicial y para recomendar el traslado a un hospital, si era necesario.

70. El director de reeducación y reinserción social explicó al Relator Especial que se hacía una investigación interna de todas las quejas de malos tratos de los reclusos, que el director general de la cárcel encomendaba a uno de sus subdirectores, es decir, de reeducación y reinserción social, de seguridad o de asociación y seguridad. Explicó además que, cuando se necesitaba un informe médico, primero se llevaba a la presunta víctima a la comisaría, donde había que rellenar un formulario antes de conducir al detenido al Instituto de Medicina Legal. Indicó que en los últimos cinco años y medio, 47 guardias habían sido objeto de investigación interna. Se demostró la culpabilidad de sólo diez que fueron despedidos por el superintendente de la organización penitenciaria. No se disponía de información en lo que respecta al inicio de acciones penales contra estos agentes.

71. Un decimotercer pabellón se utilizaba como centro de observación criminológica, donde al parecer eran llevados los presos que se acababa de detener para un período de observación de hasta 30 días, durante el cual supuestamente se les sometía a varias pruebas psicológicas, médicas y sociológicas. Se explicó también al Relator Especial que durante ese período el director general de la cárcel se reúne con cada recluso para explicarle las normas de disciplina interna. En el momento de la visita, los presos que estaban en el centro de observación criminológica señalaron que nadie los había examinado hasta ese momento y algunos dijeron que llevaban más de 15 días allí. Estaban a la espera de ser trasladados a un pabellón normal, tan pronto hubiera celdas libres. Algunos presos detenidos en el centro de observación se quejaron de haber sido golpeados brutalmente en el pasillo del pabellón la noche de su llegada. Supuestamente se les hizo ponerse en fila contra la pared y fueron pateados y golpeados en las costillas y en la espalda con garrotes y azadas durante un cuarto de hora. Al parecer, esto se repitió durante varias noches. De conformidad con la información recibida, también se les amenazó con enterrarlos en un cementerio clandestino. Los detenidos creían que sólo uno de los turnos de noche de los guardias era responsable de estas palizas.

72. Al final de la visita, el Relator Especial se reunió con los guardias. Si bien reconocieron que no todos ellos realizaban su trabajo con dedicación, se quejaron de la falta de formación y del volumen de trabajo. Dos tercios del personal de cárceles, al parecer, tenía contratos temporales (contratos administrativos) y no recibían formación alguna. Se informó de que trabajaban 12 horas y descansaban durante las 24 horas siguientes. Por último, señalaron el alto grado de estrés al que estaban expuestos y reconocieron que eso daba lugar a cierta agresividad hacia la población carcelaria y a problemas psicológicos entre el personal.

E. Estado de Pernambuco

1. Comisarías

73. El 6 de septiembre, el Relator Especial visitó la comisaría del 16° distrito de Ibura (Recife), donde en ese momento no había ningún sospechoso detenido o que estuviera siendo interrogado, pese a tratarse de una zona considerada de gran delincuencia. El delegado explicó que incluso los días de semana sólo eran conducidas a la comisaría dos o tres personas por día, pero no pudo especificar el tiempo medio que quedaban detenidas. El Relator Especial observó las condiciones de trabajo deplorables del personal policial. El techo de una de las oficinas se estaba viniendo abajo, los expedientes estaban apilados en mesas por falta de archivadores, y el lavabo de los policías estaba inmundado y carecía de la comodidad más elemental. En una de las oficinas, donde se suponía que tenían lugar los interrogatorios, el Relator Especial encontró algunos

garrotes y una palmatória. El delegado indicó que no se habían utilizado desde hacía mucho tiempo; en efecto, estaban llenos de polvo. El calabozo consistía en dos celdas de unos 3 m², muy sucias y hediondas, con un agujero lleno de excrementos en una esquina. Según informaciones recibidas posteriormente, el delegado fue destituido en espera de una investigación en relación con la palmatória y el desorden en los registros.

74. El Relator Especial visitó a continuación la comisaría de policía del 15° distrito de Cavaleiro (Recife), donde no había ningún sospechoso detenido. También aquí las condiciones de trabajo le parecieron deficientes. Un investigador le hizo ver la falta de material elemental, como papel, máquinas de escribir y archivadores. Además le señaló que, pese a los tiroteos tan frecuentes en la zona de la jurisdicción de esa comisaría, los policías no disponían de chalecos antibalas. Velando por su seguridad, el investigador se había comprado un chaleco con su dinero. También le indicó que en una zona como aquella, de delincuencia violenta, había tenido que comprarse su propia arma y no había ninguna reglamentación que le exigiera hacer un informe cuando la disparaba. El calabozo se componía de dos celdas totalmente oscuras de unos 2 m², con un agujero en una esquina que servía de retrete. Las celdas estaban al final de un pequeño corredor sin luz. El delegado indicó que nadie había estado detenido en esas celdas más de tres horas. En la sala de los investigadores, el Relator Especial descubrió unas barras de hierro, y las autoridades dijeron que constituían elementos de prueba. El Relator Especial observó que no llevaban etiquetas, por lo que no creyó plausible la explicación. El Relator Especial confirmó la información que había recibido en la comisaría de policía anterior, a saber, que no existe un libro de registro uniforme en el que conste toda la información relativa a un caso, en particular cuando una persona ingresa a la comisaría y luego sale o es llevada a otro establecimiento.

75. Por último, visitó la comisaría de policía del primer distrito, encargada de robos y hurtos, donde en ese momento no había ningún sospechoso detenido o que estuviera siendo interrogado. El calabozo consistía en dos celdas grandes y oscuras. El delegado indicó que las personas quedaban detenidas normalmente sólo unas pocas horas. Cuando, más tarde, el Relator Especial consultó el libro de registro, el delegado admitió que recientemente un grupo de personas había estado detenido ocho días en esa comisaría hasta que fue posible su traslado a un penal de otro Estado. En la parte de atrás de la comisaría había 12 celdas grandes y oscuras, de unos 15 m². Se dijo que no habían sido utilizadas desde hacía mucho tiempo, afirmación que parecía corroborar la presencia de polvo y de telarañas. Para explicar la ausencia de personas en detención policial, el delegado mostró al Relator Especial un libro de registro en el que pudo ver que sólo había entre 10 y 25 personas detenidas al mes. Desde el principio de septiembre sólo cuatro habían sido detenidas y conducidas a la comisaría. Según el delegado, la mayoría de las detenciones eran por orden judicial; se calculaba que sólo el 40% de los detenidos habían sido sorprendidos en flagrante delito. Las organizaciones no gubernamentales quedaron sorprendidas de que el Relator Especial no hubiera visto a nadie detenido o en la fase de interrogatorio durante su visita a las tres comisarías de policía, que se sabía que estaban ubicadas en barrios de alta delincuencia. A su juicio, el pequeño número de personas que figuraba en los libros de registro que vio el Relator Especial obedecía a un registro deficiente de los arrestos y detenciones.

2. Una cárcel

76. El 7 de septiembre, el Relator Especial visitó la institución penitenciaria Anibal Bruno, en la que había 2.971 reclusos, si bien las autoridades señalaron que sólo tenía capacidad para 524. Se reconoció que el problema del hacinamiento era la mayor dificultad con que tropezaba la institución, agravada por el hecho de que el director sólo contaba con 15 agentes de la policía militar y 8 guardias carcelarios para mantener el orden y la seguridad en esa enorme cárcel. Además, se señaló que los agentes de la policía militar asignados a las instituciones penitenciarias sólo recibían una semana de preparación, en la que participaban organizaciones no gubernamentales. La falta de personal también se adujo para explicar que los reclusos no salieran de sus celdas sino unas pocas horas al día. El director informó al Relator Especial de que desde su nombramiento, en abril de 2000, no se había producido ningún motín. Se habían tomado varias medidas para reducir las tensiones y mantener la calma y el orden entre los reclusos, como permitir que los familiares pasaran una noche cada 15 días con sus parientes reclusos. Se señaló que psicólogos, asistentes sociales, abogados, médicos y enfermeras visitaban regularmente la cárcel y organizaban distintas actividades con los reclusos, algunos de los cuales también trabajaban en pequeñas unidades creadas en colaboración con el sector privado. Sin embargo, respondiendo a una pregunta del Relator Especial, el director reconoció que, por ejemplo, en la semana anterior ningún médico había visitado la cárcel. La única razón que pudo aducir fue la falta de compromiso por parte de varios profesionales que se ocupan de los asuntos de los reclusos. El director señaló que los reclusos estaban agrupados en función de los delitos por los que habían sido condenados.

77. El Relator Especial pidió más información acerca de las denuncias hechas en un informe reciente del consejo de la comunidad, tras una visita efectuada el 11 de julio en la que dos reclusos se quejaron de haber sido golpeados y aún tenían las marcas de ello. Respecto de las quejas de malos tratos, el director primero explicó que las presuntas víctimas eran trasladadas inmediatamente al Instituto de Medicina Legal para obtener un certificado médico. En cuanto a ese caso particular, el director dijo que se había enviado una nota al comandante del batallón al que pertenecían los dos agentes presuntamente responsables. Se señaló que ya estaban previstas las audiencias para decidir si el corregedor de la Secretaría de Justicia llevaría a cabo una investigación interna, como el propio director había sugerido. Debido al problema de escasez de personal, los dos agentes sospechosos estaban todavía de servicio en el mismo pabellón que las dos presuntas víctimas. Sin embargo, el director explicó que trabajaban sólo como personal auxiliar, sin tener ningún contacto con los reclusos.

78. El Relator Especial visitó en primer lugar las celdas de castigo. Quince detenidos estaban reclusos en una celda grande, donde sólo había un colchón y algunas mantas. Salvo uno, todos habían recibido entre 20 y 30 días de castigo. El Relator Especial observó que en el libro de castigos sólo figuraban 13 reclusos en esa celda. Si bien uno había ingresado pocos minutos antes de la visita del Relator Especial, otro al parecer llevaba ya dos días en la celda. El director explicó que él todavía no había confirmado la decisión de castigar a ese recluso, que había sido tomada por el encargado de la seguridad del pabellón. Otros nueve reclusos estaban en dos celdas especiales de aislamiento, con camas, colchones, mantas y otros artículos personales como ventiladores. Los reclusos indicaron que sus esposas podían visitarlos, pero se lamentaron de la falta de intimidad en esas ocasiones. Según se informó estaban segregados por considerárseles muy peligrosos. El director señaló que toda decisión de castigar a un recluso debe estar precedida de una investigación, en la que, sin embargo, el recluso no tiene

oportunidad de defenderse. Para la defensa, sólo es oído el recluso encargado de la vigilancia del pabellón. Ninguno o casi ninguno de los reclusos que encontró el Relator Especial en las tres celdas de castigo había sido interrogado ni sabía en qué fase se hallaba el procedimiento por el cual había sido castigado. Tampoco sabían a cuántos días habían sido castigados. Se dijo que un recluso había pasado más de tres meses en una celda de castigo. Casi todos se quejaron de haber sido golpeados antes de entrar en la celda de castigo, en particular por policías militares (véase el anexo). Algunos dijeron que habían firmado una declaración en la que admitían haber violado el reglamento interno de la cárcel, por miedo a ser golpeados o enviados al pabellón en el que había miembros de bandas rivales. Al parecer era frecuente en esta cárcel que los guardias amenazaran a los reclusos con exponerlos a la violencia enviándolos a las celdas donde estaban sus rivales. Algunos reclusos creían que esos actos de violencia habían causado muertes en el pasado. Según información dada posteriormente al Relator Especial por organizaciones no gubernamentales fiables, algunos de esos reclusos fueron objeto de represalias, incluidas palizas, cuando el Relator Especial estaba visitando otros pabellones del establecimiento (véase el anexo). Este incidente está siendo investigado directamente por el Gobierno.

79. El Relator Especial visitó a continuación la celda grande de selección (triagem), de unos 35 m², en la que se hallaban los reclusos que acababan de ingresar a la cárcel, en espera de que se les asignara una celda en función de los delitos por los que habían sido condenados y de un perfil psicológico. En ese momento había 31 reclusos, y en la celda no había colchones ni mantas. La mayoría de ellos ya llevaba tres o cuatro días de espera y suponían que permanecerían allí hasta que su número llegara a 100. El director explicó que los reclusos permanecían detenidos en el pabellón durante ocho días, el tiempo necesario para pasar los reconocimientos médicos y psicológicos y otros exámenes llamados técnicos. La mayoría de los reclusos, si no todos, tenían miedo de hablar con el Relator Especial por las posibles represalias. Se le dijo que, antes de su visita, los guardias habían advertido a los reclusos de que no hablaran con él. Sin embargo, algunos afirmaron haber recibido palizas a su llegada a la cárcel Anibal Bruno o durante los exámenes técnicos (véase el anexo). También se dijo que estos últimos eran humillantes.

F. Estado de Pará

1. Una comisaría de policía

80. El 9 de septiembre, el Relator Especial visitó la comisaría de Guama (Maraba). Los delegados responsables señalaron a su atención las condiciones en que trabajaban. Por ejemplo, tenían turnos de más de 14 horas los días laborables y de 24 horas los fines de semana. Había falta de material y de personal. En el depósito y en el lavabo, así como en la oficina de los delegados, el Relator Especial descubrió varios garrotes, entre ellos palos de billar, que se dijo eran elementos de prueba. Sin embargo, el Relator Especial observó que no estaban en las habitaciones donde correspondía ni llevaban etiqueta alguna, por lo que concluyó que esa explicación no era plausible. En el calabozo había tres detenidos: Fabio Tavares da Silva, Rilton de Silva Soares y Amadeu Almeida Pemental. Al parecer habían sido fuertemente golpeados en el momento de la detención y a la llegada a la comisaría, y uno de ellos todavía llevaba sólo ropa interior, pues había sido detenido en su casa en la mitad de la noche y no le habían permitido coger su ropa (véase el anexo).

2. Centros de prisión provisional

81. El mismo día, el Relator Especial visitó el centro de prisión provisional (seccional urbana) de São Braz, donde había en ese momento unas 80 personas en 5 celdas en mal estado. Si bien se trataba de una comisaría de policía, la vigilancia estaba a cargo de funcionarios del sistema penitenciario, ya que las celdas eran para los detenidos en espera de juicio y, por lo tanto, estaban bajo la jurisdicción de la Secretaría de Estado de Justicia. En cada celda, de unos 14 m², había 16 personas. Los detenidos dormían en el suelo de cemento; no había colchones y sólo había pocas mantas. Se indicó que los guardias conservaban los efectos personales que, los familiares u otras personas traían a los detenidos. Algunos de ellos dijeron que tenían que pagar a los guardias para recibir los artículos personales que les traían sus familias, como pasta de dientes o jabón.

82. Según los testimonios, los detenidos no podían salir de sus celdas, salvo cuando recibían la visita de sus abogados o familiares. El Relator Especial observó, efectivamente, la gran palidez de la mayoría de los detenidos. El funcionario encargado del calabozo confirmó que la infraestructura no permitía que los detenidos recibieran la luz natural directa, pese a que había un pequeño patio descubierto y sucio. La comida, que el sistema penitenciario proporcionaba una vez al día, le pareció al Relator Especial escasa e incluso en mal estado. Los detenidos dijeron que sus familiares podían traerles comida, aunque no les estaba permitido verlos.

83. La mayoría de los detenidos en prisión provisional desconocían la situación del procedimiento judicial en su contra y no habían visto a ningún magistrado desde su detención. Algunos estaban en prisión provisional desde hacía 15 meses. Según información dada por los detenidos de diferentes celdas, todo el que ingresa en la prisión permanece primero en la celda de castigo, llamada "forte", de unos 3 m², situada a la entrada de la prisión. Cuando el Relator Especial visitó el forte, vio en una esquina que el agujero utilizado como retrete estaba lleno de excrementos. Se señaló que en esa celda podían estar detenidas 20 personas hasta 10 días y que algunos permanecían en esa celda atestada hasta 30 días. Se dijo que los detenidos utilizaban para beber el agua de los servicios.

84. Entre las personas entrevistadas por el Relator Especial (véase el anexo), tres reclusos dijeron que habían sido detenidos recientemente por agentes de la policía militar, y que habían recibido una paliza con la palmatória. Todavía eran visibles las marcas que confirmaban su denuncia: un hematoma circular en la parte superior de la pierna izquierda de José Ricardo Vianna Gomez, hematomas en la parte superior del brazo izquierdo de Marcio Furtado Correia Paiva, y una cicatriz inflamada e hinchada de 1 a 2 cm de longitud en la cabeza, así como marcas en la parte derecha de la espalda, el hombro y el brazo derechos de Valdi Aleixo Barata. El mismo día, el Relator Especial encontró una palmatória, que tenía una apertura en el medio, en la garita de la policía militar Tierra Firme, que llevaba escrito "Tiazinha, chega-te a mim" (Pégate a mí) y "Agora me dan medo" (Ahora sí tengo miedo), lo que respondía a la descrita por las mencionadas personas.

85. El 10 de septiembre, el Relator Especial visitó el centro de prisión provisional (superintendencia) de Marabá, situado en el mismo edificio de la Jefatura de Policía. En ese momento había 74 detenidos en 14 celdas agrupadas alrededor de un gran patio descubierto. En cada celda sólo había unos pocos colchones y la mayoría de los detenidos tenía que dormir en mantas o directamente en el suelo de cemento. Los detenidos se quejaron de la calidad de la

comida, que, al igual que en otros lugares visitados por el Relator Especial, consistía en arroz y pastas y que al Relator Especial le pareció de mala calidad y en muchos casos en mal estado. Se dijo que los detenidos recibían esa comida una vez al día, para el almuerzo, y café y pan para el desayuno y la cena.

86. Se dijo que los reclusos podían salir de sus celdas dos horas al día, pero ellos afirmaron que sólo podían hacerlo dos horas cada dos días. Muchos se quejaron de haber sido objeto de torturas y otras formas de malos tratos en el momento de la detención por la policía militar y por la policía civil, así como durante los interrogatorios (véase el anexo), pero todos reconocieron que el trato había mejorado considerablemente desde el nombramiento del nuevo director. Habían cesado las palizas que propinaban los guardias carcelarios. Además, el director afirmó que una persona detenida que estuviera bajo su responsabilidad sólo podía ser sacada por un investigador de la policía con mandato judicial.

87. El Relator Especial visitó a continuación el calabozo de la Jefatura de Policía. En el patio estaban detenidas cuatro personas y había un menor en cada una de las dos celdas. Si bien el patio estaba limpio y bien ventilado, el aire en las dos celdas estaba hediondo y cargado. Las dos celdas eran totalmente oscuras y no tenían colchones. Los dos menores habían sostenido una pelea la noche anterior. Uno había herido gravemente al otro clavándole un cepillo de dientes en el cuello y en el estómago. El herido había recibido tratamiento médico, pero de los apósitos salía sangre y al parecer el agente de la policía civil que lo había acompañado se había quedado con los analgésicos que le había dado el médico. Los dos menores habían pasado más de tres meses en las celdas oscuras, donde, por falta de servicios, habían tenido que hacer sus necesidades en botellas o bolsas de plástico los 15 días precedentes a la visita del Relator Especial.

88. Según organizaciones no gubernamentales y algunos fiscales con los que se reunió el Relator Especial en Marabá, la violencia policial es un problema importante en la región, así como en otras regiones rurales remotas del país. Se dijo que, a causa de la distancia geográfica del sistema judicial, la policía civil asume las funciones policiales y judiciales al mismo tiempo; los fiscales y los jueces se basan totalmente en las investigaciones de la policía, sin cuestionar la manera en que se realizaban. En cuanto a los movimientos agrarios, el conflicto entre los terratenientes, que se afirma son a menudo funcionarios de seguridad pública o judiciales, y los trabajadores ha sido al parecer muy violento, con un gran número de casos de ejecuciones extrajudiciales y torturas. Se señaló que fuerzas de la policía civil y militar actuaban como milicias privadas de los terratenientes. Se dijo que la respuesta de la capital había sido insuficiente y que las autoridades judiciales no habían asumido sus responsabilidades normales.

II. PROTECCIÓN DE LOS DETENIDOS CONTRA LA TORTURA

89. Las normas de procedimiento penal y cumplimiento de sanciones penales figuran principalmente en la legislación federal del Brasil, como el Código Penal (Decreto-ley N° 2848, de 7 de diciembre de 1940), la Ley de procedimiento penal (Decreto-ley N° 3689, de 30 de octubre de 1941) y la Ley de cumplimiento de sentencias (Lei de Execução Penal, LEP -

Decreto-ley N° 7210, de 11 de julio de 1984) que son aplicables en todo el territorio del Brasil³. Los Estados tienen la completa responsabilidad de las actividades operacionales pertinentes a la policía y los lugares de detención, así como del cumplimiento de las sentencias judiciales. Jurisconsultos y activistas en pro de los derechos humanos recalcaron que, a pesar de la avanzada y extensa protección de reos y reclusos que dispone el ordenamiento jurídico interno, en muchos casos la normativa pertinente no se aplica en la práctica.

90. El Relator Especial señala que recibió versiones contradictorias o ilógicas con respecto a diversas disposiciones jurídicas, en especial las pertinentes al arresto y la detención provisional (anterior al enjuiciamiento), de sus interlocutores oficiales, entre ellos miembros de la judicatura, lo que parece apoyar las alegaciones tanto de reclusos como de representantes de la sociedad civil de que en la práctica no se respetan las garantías que dispone la ley, por lo menos habida cuenta que son desconocidas de quien se supone que debería aplicarlas. A este respecto, las organizaciones no gubernamentales y algunos funcionarios, en particular la Secretaría de Estado de Justicia de Rio de Janeiro, recalcaron la necesidad de capacitar a los agentes de policía y carceleros no sólo en materia de derechos humanos, sino de técnicas de investigación y de seguridad.

91. La policía de Estado está dividida en dos cuerpos autónomos, la policía civil y la policía militar⁴, que dependen del gobernador del Estado. La policía civil, que tiene la tarea de "ejercer funciones de policía judicial y determinar los delitos penales, salvo los de carácter militar"⁵, está encargada de tramitar la gran mayoría de las actividades de orden penal. La policía militar, un cuerpo uniformado que ha sido definido como "fuerza auxiliar del ejército", está encargada de desempeñar las funciones de policía pública, comprensivas de velar por la seguridad externa de las cárceles, y de mantener el orden público⁶.

A. Arresto

92. La Constitución de la República Federativa del Brasil, de 5 de octubre de 1988, dispone que "nadie será detenido sino en flagrante delito o por orden escrita y fundamentada de la autoridad judicial competente (...)"⁷ y que "la detención de cualquier persona y el lugar donde se encuentre serán comunicados inmediatamente al juez competente y a la familia del detenido o a la persona indicada por él"⁸. En caso de detención en flagrante delito, se supone que la jurisprudencia ha establecido que es razonable un período máximo de 24 horas de detención

³ Diversos Estados como São Paulo y Pará, sin embargo, han aprobado leyes penitenciarias suplementarias.

⁴ Artículo 144, (0) IV y (6), Constitución de la República Federativa del Brasil.

⁵ *Ibidem*, art. 144 (4).

⁶ *Ibidem*, art. 144 (5).

⁷ *Ibidem*, art. 5 (LXI).

⁸ *Ibidem*, art. 5 (LXII).

antes que un juez dicte una orden de detención provisional. Cabe señalar que el artículo 310 de la Ley de procedimiento penal dispone que el juez escuchará las informaciones del fiscal sobre el arresto. Según la información recibida, en la práctica la policía notifica las detenciones por escrito a los magistrados y al ministerio público. No existe ninguna disposición legislativa que garantice que un magistrado o un fiscal se reúnan con las personas detenidas en las primeras horas de su detención. El Relator Especial señala, sin embargo, que muchas personas, entre ellas fiscales, opinaron que la persona detenida en flagrante delito debe comparecer ante un juez en un plazo de 24 horas a partir de su detención. También se comunicó que al tenor de la legislación en vigor, salvo en casos de detención en flagrante delito, se informa de las detenciones al fiscal sólo unos 30 días más tarde. La Constitución dispone el derecho de hábeas corpus cuando "alguien sufriera o se creyera amenazado de sufrir violencia o coacción en su libertad de circulación, por ilegalidad o abuso de poder"⁹. Toda persona goza de locus standi para solicitar el hábeas corpus en su propia defensa o en defensa de terceros.

93. Como la policía militar tiene la competencia constitucional de ejercer funciones de policía pública, suele efectuar las detenciones en flagrante delito, pese a que se ha comunicado que la policía civil también lo ha hecho en algunas ocasiones¹⁰. Los agentes que efectúan la detención tienen la obligación de llevar al sospechoso directamente a la comisaría de policía (delegacia) para ser fichados. Las comisarías están a cargo de la policía civil y están dirigidas por un delegado, quien conforme a la ley debe tener el título de abogado. En este momento, la policía militar deja de intervenir en la investigación penal del caso. La Constitución dispone que "el detenido será informado de sus derechos... asegurándosele la asistencia de la familia y de abogados"¹¹. No obstante, no parece haber ninguna disposición específica de la ley con respecto al tiempo que deberá transcurrir antes de que una persona detenida tenga acceso a un abogado.

94. Con relación a la asistencia letrada, el artículo 5 (LXXIV) de la Constitución dispone que "el Estado prestará asistencia jurídica íntegra y gratuita a los que demuestren insuficiencia de recursos". Organizaciones no gubernamentales y abogados con quienes se entrevistó el Relator Especial opinaron que el 95% de los detenidos reúnen las condiciones para recibir esa asistencia. El Departamento de Defensores Públicos (Defensoría Pública) está encargado de ofrecer asistencia letrada a personas de limitados recursos, que se cree que son la gran mayoría de los detenidos¹². No obstante, en muchos Estados no se han establecido dichas oficinas y en casi todas partes en que las hay se afirma que les falta personal. En consecuencia, otros organismos, como la oficina del fiscal de São Paulo, prestan asistencia letrada a los reos en causas penales. En otros casos, se designan letrados en forma gratuita y rotatoria (advogados datives).

⁹ *Ibidem*, art. 5 (LXVIII).

¹⁰ El artículo 301 de la Ley de procedimiento penal dispone que "todo ciudadano podrá detener, y la autoridad policial y sus agentes detendrán, a quien sea sorprendido cometiendo un delito".

¹¹ Artículo 5 (LXIII).

¹² El Relator Especial observa con reconocimiento el ejemplo de la Defensoría Pública del Estado de Rio de Janeiro que, por intermedio de oficinas establecidas dentro de las prisiones, proporciona asistencia letrada a los reclusos condenados que procuran avanzar por los distintos regímenes del sistema penal (véanse los párrafos 115 y siguientes del presente documento).

Defensores públicos en Rio de Janeiro también informaron al Relator Especial de que solía existir una oficina especial de defensa pública (Núcleo de Defesa da Cidadania) que prestaba asistencia en las comisarías de policía a las personas detenidas en flagrante delito. Ese servicio funcionaba las 24 horas del día. Desafortunadamente, fue suprimido porque ningún defensor público estaba dispuesto a trabajar en él por tan poca remuneración y porque ganarían más como fiscales. Algunos abogados y organizaciones no gubernamentales también indicaron que los defensores públicos rara vez dedican suficiente tiempo a representar a los reos gratuitamente. Se comunicó que solían reunirse con sus clientes durante la primera vista, o hasta durante la segunda, y que no necesariamente defendían a sus clientes durante el proceso.

95. Durante sus visitas a calabozos, el Relator Especial se encontró con que la mayoría de los sospechosos pensaban que sus familiares no habían sido informados de su detención ni de su paradero y que en la práctica las personas detenidas muy rara vez disponían de asistencia letrada. En cambio, se comunicó que, en los pocos casos en que un detenido tenía un abogado particular, éste había sido advertido que era mejor que no viese a su cliente sino hasta después de terminada la etapa preliminar del proceso. Los abogados señalaron que a menudo se reunían por primera vez con sus clientes durante la primera vista judicial. Según los defensores públicos con quienes se reunió el Relator Especial en Rio de Janeiro, al tenor de un decreto aprobado en 1995, los delegados deben enviar una carta a la oficina de defensoría pública notificándole las detenciones a los tres o cuatro días de haberse efectuado. Según los fiscales del Núcleo contra tortura del distrito federal de Brasilia, el 97% de los sospechosos no tienen asistencia letrada durante la fase de investigación mientras que la mayoría de ellos sólo cuentan con la asistencia de estudiantes de derecho durante la fase procesal. También comunicaron que los estudiantes no van a las comisarías y normalmente se reúnen con sus clientes por primera vez durante la primera vista de la instrucción y, por consiguiente, no están en condiciones de hacer comparecer a testigos.

96. Durante las visitas a comisarías de policía, el Relator Especial observó que en la mayoría de los casos no se llevaba un registro oficial del momento y el lugar de la detención, ni de la identidad de los agentes que efectuaban el arresto o del traslado posterior de los sospechosos a una comisaría. No solía consignarse el traslado a centros médicos o a tribunales. Durante su visita a la comisaría del 16º distrito de policía en Recife, el delegado señaló al Relator Especial primero que no había un libro de registro en que se pudiera consignar esa información. El corregedor de policía que acompañaba al Relator Especial confirmó que esa información debe consignarse en un registro, pero indicó que no había un libro de registro establecido. También informó al Relator Especial de que la oficina del corregedor había propuesto uniformar todos los libros de registro. Al fin y a la postre, se mostró al Relator Especial un libro en que se consignaban las diligencias. En él figuraban la fecha y la hora de la detención, pero no se mencionaba la fecha ni la hora de la liberación o del traslado a otro lugar de detención. Se afirmó que esa información figuraba en el expediente del reo. El Relator Especial observa que, sin embargo, no estaba consignada en el expediente de la persona que escogió al azar del libro. Ante la falta de un registro, es difícil que las autoridades refuten las frecuentes denuncias de que durante los traslados se somete a los reos a tortura u otras formas de malos tratos, entre ellas amenazas, en un intento de hacerlos confesar o intimidarlos para evitar que se quejen de malos tratos ya ocurridos a los magistrados o a los médicos y peritos forenses. Se afirma que el traslado suele durar mucho más de lo necesario porque a menudo se aprovecha para llevar al reo a zonas remotas en donde es sometido a malos tratos o amenazas. Diversos detenidos con quienes se reunió el Relator Especial afirmaron que después de su detención fueron conducidos

en un vehículo durante horas, pretendidamente para que los medios de comunicación tuvieran tiempo de llegar a la comisaría de modo que pudiesen filmar e informar de la detención de criminales sospechosos. En esas circunstancias, los detenidos se quejaron de haber sido caracterizados como criminales en vez de sospechosos tanto por la policía como por los medios de información. Algunos dijeron que habían sido torturados o maltratados y amenazados por los agentes de policía para hacerlos confesar delante de los medios de comunicación que habían cometido los delitos por los que fueron detenidos.

97. A pesar de las salvaguardias contra la detención arbitraria que dispone la ley, se comunica que tanto la policía civil como la policía militar rutinariamente detienen a las personas desconociendo los límites de la ley. Al parecer se suele recurrir a la detención en flagrante delito. Parece, según testimonios recibidos por el Relator Especial, que hay una propensión a efectuar detenciones que después se clasifican de detención en flagrante delito aun cuando la persona no sea sorprendida cometiendo un delito, sino que existen fuertes sospechas de que intervino en una actividad criminal. Este fenómeno parece afectar particularmente a personas de origen africano o de grupos marginados. Además, el Relator Especial recibió varias denuncias de que la policía había colocado a escondidas pruebas, como armas o narcóticos, en personas que habrían sido detenidas en flagrante delito.

B. Investigaciones penales

98. El Brasil es uno de los pocos países de América Latina que mantiene la institución de investigaciones penales preliminares efectuadas únicamente por la policía. La policía civil lleva a cabo las indagaciones policiales que pueden comenzar por orden escrita de la autoridad policial, a petición de la víctima o por mandamiento judicial u orden del ministerio público. Con arreglo al artículo 5 de la Ley de procedimiento penal, hay que hacer investigaciones cuando se ha informado a la policía de una posible violación del Código Penal. El fiscal puede pedir que la policía efectúe otras indagaciones en cualquier momento. La decisión del fiscal de proceder a procesar está basada en las conclusiones de las investigaciones de la policía. Debido al sistema de rotación en las funciones (un turno de 24 horas seguido de 48 horas libres) y la consiguiente falta de continuidad, no hay un solo agente de policía o delegado que esté encargado de la investigación policial completa, lo que según las organizaciones no gubernamentales y algunos fiscales plantea serios problemas con relación a la calidad de las investigaciones.

99. Se han achacado a este sistema no sólo la mala calidad de las investigaciones, sino los desmanes de la policía al hacer indagaciones. En enero de 2000, la Secretaría de Estado de Seguridad Pública de São Paulo habría propuesto al Congreso una reforma constitucional para sustituir la investigación policial preliminar por una etapa de investigación dirigida por el fiscal bajo la supervisión de una especie de juez de instrucción. Sólo serían admisibles las confesiones hechas en presencia del juez de instrucción y toda persona sometida a detención provisional tendría que comparecer ante ese funcionario en un plazo de 24 horas. Según la información suministrada al Relator Especial en sus entrevistas con representantes de la sociedad civil, la

policía se ha opuesto firmemente a esta propuesta, a pesar de que goza del beneplácito del Gobierno¹³.

100. Durante su visita a comisarías de policía, el Relator Especial observó que al parecer la policía recurre al procedimiento de investigación de delitos repugnantes en vez de al procedimiento igualmente lícito de investigación ordinario para impedir que se conceda la libertad bajo fianza¹⁴, pese a que la inculpación judicial posterior tal vez sea por un delito menos grave. Por ejemplo, algunas personas detenidas dijeron que estaban siendo investigadas por narcotráfico (artículo 12 del Código Penal) mientras que afirmaban que habían sido aprehendidas con una pequeña cantidad de sustancias relativamente poco dañinas, como unos cuantos gramos de marihuana, que merecerían una inculpación por posesión de drogas (art. 16). Del mismo modo, parece haber una propensión a acusar de robo (art. 157) en vez de hurto (art. 155). En el primer caso, la pena mínima es de más de cuatro años, lo que significa que no se puede conceder la libertad bajo fianza, mientras que en el segundo la condena es de uno a cuatro años y cabe la posibilidad de libertad bajo fianza. Varias declaraciones de reclusos hablaban de delitos leves por pequeñas sumas de dinero, que no suponían ninguna amenaza grave a personas o bienes. Aun así, se afirmaba que la policía, el ministerio público y hasta los magistrados calificaban alegremente de robo el hurto para reducir a prisión por mucho tiempo a rateritos que en muchos países ni siquiera se verían privados de libertad. Por otro lado, se afirma que la policía a menudo obliga a confesar el delito más grave, aun cuando el reo esté dispuesto a confesar un delito de menor cuantía. La ley parece ser un acicate para que la policía obtenga confesiones de delitos más graves que el que efectivamente se ha cometido. Esta tendencia parece verse reforzada también por los llamamientos constantes del público y de los políticos para que se adopten medidas más severas contra los delincuentes. Esta política no sólo resulta en un grado importante de innecesaria privación de libertad, sino que contribuye al problema del hacinamiento. Al parecer, esta política tiene su confirmación en las estadísticas suministradas por la Secretaría de Estado de Administración Penitenciaria de São Paulo: al 31 de octubre de 2000, el 50% de los reclusos habían sido condenados por robo mientras que apenas el 8,75% por hurto. Del mismo modo, según el Gobernador del Estado de Minas Gerais, más del 40% de los detenidos en el Estado han sido condenados por narcotráfico mientras que las organizaciones no gubernamentales y los abogados señalaron que la mayoría habían sido hechos prisioneros con una muy pequeña cantidad de drogas (principalmente marihuana) que se pensaba que estaba destinada a su propio consumo.

101. Con relación a las confesiones, el artículo 5 (LVI) de la Constitución dispone que "son inadmisibles en el proceso las pruebas obtenidas por medios ilícitos". Acerca de la responsabilidad de la prueba, el artículo 156 de la Ley de procedimiento penal dice que "la responsabilidad de probar alegaciones recae en quien las haya hecho, pero el juez podrá, en la fase probatoria o antes de dictar sentencia, mandar *ex officio* que se realicen las actuaciones que considere oportunas para esclarecer las dudas sobre una cuestión relevante".

¹³ La misma propuesta también tiene el propósito de suprimir la división entre policía civil y policía militar y establecer una sola policía de Estado.

¹⁴ El artículo 323 de la Ley de procedimiento penal dispone que no se concederá la libertad bajo fianza por delitos sancionables con una pena mínima de más de dos años de prisión y si hay indicios de que el sospechoso es un vagabundo.

102. Según el Presidente del Supremo Tribunal Federal, en caso de denuncias de tortura hechas por el reo durante un proceso, se invierte la responsabilidad de la prueba. El fiscal tendría que demostrar que la confesión se obtuvo por medios lícitos y la responsabilidad de la prueba no recaería en el reo que hizo la denuncia. Según fiscales del Núcleo contra tortura del distrito federal de Brasilia, si se notifica a un magistrado o fiscal la posibilidad de que una confesión haya sido obtenida por medios ilícitos, debe hacer una investigación, que estará a cargo de un fiscal distinto del que lleve el caso. Según ellos lo entienden, mientras se esté investigando el asunto, hay que suprimir la confesión del expediente. El Presidente del Tribunal Federal de Apelación confirmó esta interpretación de la ley. Indicó que cuando hay pruebas prima facie de que un reo ha confesado bajo tortura y si sus denuncias contestan con otras pruebas, como las pruebas forenses, el juez deberá suspender el proceso y el ministerio público deberá exigir que se investiguen las denuncias de tortura. Si el juez tiene la intención de seguir procesando al sospechoso, la confesión en cuestión, así como otras pruebas obtenidas sobre la base de esa confesión, no debe formar parte del conjunto de las pruebas en el proceso original. Si una confesión es la única prueba en contra del reo, el juez deberá decidir que no hay motivo para condenarlo. El Procurador General de la República dijo que el fiscal encargado de la investigación penal inicial a veces también podrá encargarse de investigar las denuncias de que la confesión se obtuvo por medios ilícitos. Reconoció que, aunque tal vez haya intereses encontrados, esta situación suele ocurrir en pequeñas localidades.

C. Detención provisional (anterior al enjuiciamiento)

103. Hay dos clases de detención provisional.

1. Prisión preventiva

104. La orden de detención preventiva (prisão preventiva) puede ser dictada por un juez a petición oficial de la autoridad policial o del fiscal en los dos casos siguientes: a) cuando existen pruebas fundamentales de que se ha cometido un delito; y b) cuando hay pruebas suficientes contra el autor. La detención del sospechoso también deberá ser necesaria para: a) proteger el orden público; b) proteger el orden económico; c) obtener pruebas; o d) asegurarse de que el sospechoso no se dé a la fuga¹⁵. El artículo 10 de la Ley de procedimiento penal dispone que la indagación policial deberá terminar en un plazo de diez días contados desde el arresto cuando el reo esté en prisión preventiva o haya sido detenido en flagrante delito¹⁶.

2. Detención temporal

105. La detención temporal (prisão temporária, también denominada prisão para investigação) deberá ser ordenada por un juez a petición oficial de la autoridad policial o del fiscal dentro de las 24 horas de haber recibido la solicitud oficial¹⁷. El juez podrá, a su entera discreción o a

¹⁵ Artículo 312 de la Ley de procedimiento penal.

¹⁶ En el régimen de justicia federal, se dispone de 15 días para hacer la investigación policial (artículo 66 de la Ley N° 5010/66).

¹⁷ Artículo 2 de la Ley N° 7960, de 21 de diciembre de 1989, que dispone la detención temporal.

petición del fiscal o de letrado, decidir que comparezca el detenido, pedir información y explicaciones a la policía o mandar el examen del cuerpo del delito¹⁸. Después que se ordene la detención temporal, habrá que dictar un mandamiento de detención, con copia al recluso como notificación de los cargos que se le imputan (nota de culpa)¹⁹. El Relator Especial tiene entendido que el uso del término nota de culpa, tanto por los detenidos como por la sociedad civil, en la mayoría de los casos se refería a la confesión y no a la notificación de los cargos como dispone la ley. Por consiguiente, el Relator Especial ha conservado la terminología utilizada por sus interlocutores, en particular en las entrevistas con detenidos (véase el anexo).

106. "La detención temporal será aplicable cuando: a) sea esencial para las investigaciones de la policía; b) el reo no tenga residencia fija o no proporcione los elementos necesarios para determinar su identidad y c) haya motivos fundados, basados en las pruebas admitidas en la legislación penal, de que el reo ha cometido o participado en uno de los siguientes delitos: homicidio premeditado (artículo 121 del Código Penal), secuestro o reclusión en privado (art. 148), robo (art. 157), extorsión (art. 158), extorsión con secuestro (art. 159), violación (art. 213), exhibicionismo (art. 214), secuestro con violencia (art. 219), epidemia resultante en defunción (art. 267), envenenamiento del agua potable o de productos alimenticios o sustancias medicamentosas causante de defunción (art. 270), participación en bandas o grupos criminales (art. 288), genocidio (artículos 1 a 3 de la Ley N° 2899, de 21 de octubre de 1967), narcotráfico (artículo 12 de la Ley N° 6368, de 21 de octubre de 1976) y delitos contra el sistema financiero (Ley N° 7492, de 26 de junio de 1986). Se comunica que la jurisprudencia y opinio juris han establecido que se puede mandar la detención temporal en el caso de los delitos enumerados cuando se reúna una de las otras dos condiciones, a) o b). El período máximo de detención temporal de un sospechoso es de cinco días, "que se podrá prolongar por el mismo período de tiempo cuando sea suma y absolutamente necesario"²⁰.

107. Además, se estipulan distintos períodos de detención temporal con relación a los denominados delitos repugnantes. El artículo 5 (XLIII) de la Constitución dispone los siguientes delitos repugnantes: la práctica de la tortura, el tráfico ilícito de estupefacientes, el terrorismo y los otros que defina la ley. En la relación constitucional de la Ley de delitos repugnantes²¹ se incluyen los siguientes: robo a mano armada seguido de muerte, extorsión seguida de la muerte de la víctima, violación y agresión sexual con violencia, propagación de enfermedades epidémicas con la subsiguiente defunción y genocidio. La misma disposición constitucional no admite amnistía, indulto o libertad bajo fianza por esos delitos. En casos de detención por sospecha de haber cometido delito repugnante, se podrá mandar la detención temporal por 30 días renovables por el mismo período de tiempo si es absolutamente necesario.

¹⁸ *Ibidem*, art. 2 (3).

¹⁹ *Ibidem*, art. 2 (4).

²⁰ *Ibidem*, art. 2.

²¹ Ley N° 8072/90, de 25 de julio 1990.

3. Norma de los 81 días

108. Con arreglo a la jurisprudencia, en casos de prisión preventiva, los primeros 10 días de detención antes de la inculpación deberán incluirse en el período provisional (previo al enjuiciamiento) de 81 días. Este período es una figura jurisprudencial que abarca los siguientes períodos de tiempo, entre otros: 10 días para que la policía haga la investigación penal; 5 días para que el fiscal inicie la acción penal; 3 días para que el reo conteste; 20 días para oír a los testigos de cargo y 20 días para los testigos de descargo. En caso de detención temporal, hasta en los casos de delitos repugnantes, los 81 días comienzan después del período inicial de detención temporal (es decir, 5 más 5, o en caso de delitos repugnantes, 30 más 30 días).

109. No obstante, en ambos casos, es decir si el sospechoso ha permanecido primero en prisión preventiva o temporal, ninguna disposición legislativa parece establecer la obligación de excarcelarlo al término del período de detención provisional establecido por ley si ningún tribunal se ha pronunciado sobre el fondo del caso. En cambio, se comunica que el Tribunal Federal de Apelación ha dispuesto que el período de 81 días no deberá tenerse en cuenta rigurosamente y que el juez podrá aplicar el "principio de sensatez" para mantener detenida a una persona si el retraso se justifica por dificultades naturales del procedimiento penal. El Tribunal declaró que "la jurisprudencia que ha definido el plazo de 81 días para demostrar la culpabilidad en caso que el reo esté detenido, deberá aplicarse con flexibilidad para tener presente el principio de sensatez. Está permitido superar ese plazo en circunstancias debidamente justificadas"²². El ministerio público ha puesto en conocimiento del Relator Especial que esta jurisprudencia puede ser sumamente peligrosa ya que no establece un límite para la aplicación del "principio de sensatez". Quien esté en detención preventiva tiene la posibilidad de libertad provisional bajo fianza.

4. Centros de detención provisional (previa al enjuiciamiento)

110. El artículo 84 de la Ley de cumplimiento de sentencias dispone que los reclusos condenados deberán estar separados de los reclusos procesados. El artículo 102 de dicha ley dispone que las personas que estén en detención provisional deberán estar albergadas en centros de prisión preventiva (cadeias publicas)²³. Cada tribunal de distrito debe tener por lo menos un centro de detención provisional para la buena administración de la justicia penal y asegurarse de que los reclusos permanezcan cerca de sus familiares o de su comunidad²⁴. No obstante, no está claro si tiene límite el tiempo que la persona contra quien se haya formulado un acta de acusación puede permanecer en una comisaría (delegacia de policia) antes de ser trasladada a un centro de detención provisional. Si bien la ley parece estar clara y dispone que se podrá retener a una persona en un calabozo por un máximo de 24 horas (tras el cual un juez deberá dictar una orden de detención provisional), la jurisprudencia es relativamente contradictoria. Se comunica que el Supremo Tribunal Federal ha decidido que "la detención de una persona acusada en una

²² STJ - HC 10855.

²³ Que suele traducirse al inglés por "Public jails" (cárceles del Estado).

²⁴ Artículo 103 de la Ley de cumplimiento de sentencias.

comisaría de policía no podrá superar la duración del procedimiento regular"²⁵ sin mencionar, sin embargo, el plazo de 24 horas previsto en la ley. De acuerdo con algunos de los interlocutores oficiales del Relator Especial, a efectos jurídicos las comisarías se consideran efectivamente cárceles del Estado y, por lo tanto, las personas en detención provisional, es decir, detenidas en virtud de una orden de detención temporal o prisión preventiva, pueden permanecer en celdas de la policía más allá del período de 24 horas. Señalaron, sin embargo, que era contrario a la ley mantener a los reclusos condenados en las comisarías o en centros de detención previa al enjuiciamiento y retener a los reclusos procesados en cárceles para personas condenadas. Según las organizaciones no gubernamentales y el ministerio público, hay que considerar ilegal la detención provisional en calabozos de la policía pues el artículo 102 dispone que las personas en detención provisional deberán permanecer en centros establecidos con ese fin. Por la falta de cupo en los centros de detención provisional, se cree que la policía y las autoridades judiciales se han visto "obligadas" a pasar por alto lo que dispone la ley. Diversos altos tribunales del Estado han decidido, pues, que no había ningún lugar apropiado en una institución penitenciaria -hasta los reclusos condenados pueden permanecer en celdas de la policía- que a fortiori pudiera albergar a personas en detención provisional²⁶. Se afirma, sin embargo, que el Tribunal Federal de Apelación ha decidido que un recluso condenado no puede permanecer en una comisaría de policía²⁷. Se cree que, como la policía civil está a cargo de la investigación preliminar y agentes de la policía civil vigilan los calabozos de la policía, es más fácil que los investigadores policiales abusen de los sospechosos en un intento de hacerlos confesar o facilitar información relativa a la investigación penal. Además, a causa del hacinamiento en las cárceles de la mayoría de los Estados, se suele mantener a los reclusos condenados en delegacias y, por lo tanto, suelen estar junto con los reclusos en espera de enjuiciamiento, en violación de la Ley de cumplimiento de sentencias.

111. El gobernador del Estado de Rio de Janeiro informó al Relator Especial de su intención de crear "casas de vigilancia" bajo la jurisdicción de la Secretaría de Justicia, adonde las personas detenidas en flagrante delito, que en el momento de la visita del Relator Especial estaban recluidas en comisarías de policía, serían llevadas inmediatamente después de su arresto. Según este nuevo procedimiento, después de su detención un sospechoso sería llevado a una delegacia legal, en donde se determinaría su identidad y se le haría un interrogatorio preliminar. Entonces la persona sería trasladada a una "casa de vigilancia", en donde volvería a ser interrogada. El Relator Especial acoge con beneplácito esta propuesta, a la vez que recalca la necesidad de fijar un plazo tope para que la policía entregue al reo a una institución que esté bajo la jurisdicción de la Secretaría de Justicia. Según el Secretario de Estado de Seguridad Pública

²⁵ STF HC 72.742 RJ.

²⁶ Véase, por ejemplo: "Pese a que una comisaría de policía no es un lugar adecuado para cumplir una sentencia, el condenado deberá, por la falta de cupo en una institución penitenciaria, soportar esa situación irregular hasta tanto pueda ser trasladado a dicha institución. Esta situación no es equivalente a una limitación ilícita puesto que tiene justificación por la falta de cupo para él en una institución penitenciaria". (Traducción oficiosa, Alto Tribunal del Estado de Rio de Janeiro, Hábeas Corpus 815/94).

²⁷ Véase, por ejemplo, la decisión HC 7328.

de Rio de Janeiro, sería difícil fijar ese plazo porque dependería del número de declaraciones de víctimas y testigos que hubiera que tomar.

D. Sentencias

112. De conformidad con el artículo 33 del Código Penal, el régimen cerrado es obligatorio para las penas de prisión de más de ocho años, que deben cumplirse en establecimientos de máxima o mediana seguridad. Podrá concederse un régimen semiabierto en el caso de las penas de cuatro a ocho años, siempre y cuando el interesado no sea reincidente, mientras que se permitirá un régimen abierto a las personas condenadas a una pena de hasta cuatro años, también a condición de que no sean reincidentes. Los reincidentes deberán cumplir condena en régimen cerrado.

113. En los artículos 43 y 44 del Código Penal se dispone la aplicación de sentencias alternativas con carácter obligatorio. Ello significa que, en caso de que existan las condiciones necesarias para imponer una sentencia de esta índole, el juez estará obligado a pronunciarla. Esas condiciones son las siguientes: que la pena de prisión no sea superior a cuatro años; que el delito no haya sido cometido intencionalmente ni recurriendo a la violencia o a una amenaza grave de violencia, y que la persona contra quien se pronuncie la sentencia no haya cometido anteriormente ningún delito intencional. En la aplicación de sentencias alternativas también deben tenerse en cuenta los datos relativos al comportamiento anterior del interesado, su conducta social, el grado de culpabilidad y las circunstancias en que se cometió el delito. Las sentencias alternativas van desde el pago de una indemnización o multa hasta la imposición de servicios a la comunidad o trabajos de carácter benéfico, o interdicción civil temporal.

114. El hecho de que las sentencias alternativas sólo sean aplicables en el caso de las penas inferiores a cuatro años, junto con la tendencia de la policía a tratar de lograr que se confiese un delito más grave del cometido, contribuye a la imposición de medidas de privación de libertad. Según se informa, parece que los jueces evitan pronunciar sentencias alternativas incluso en el caso de las personas que han delinquido por primera vez. Según las organizaciones no gubernamentales y algunos funcionarios públicos y fiscales con los que se entrevistó el Relator Especial, esta situación se debe también a la presión cada vez mayor de la opinión pública para que se adopten medidas estrictas contra la delincuencia y para que se mantenga a los delincuentes en la cárcel. El Secretario de Estado de Seguridad Pública de São Paulo destacó que la cultura dominante en el poder judicial no es una cultura de derechos humanos cuando se trata de luchar contra la delincuencia, y se refirió a un dicho popular brasileño que reza: "Los delincuentes buenos son los que están muertos".

115. Existe también un sistema progresivo de condenas en virtud del cual los detenidos pueden pasar de un régimen estricto a otro menos severo, siempre y cuando se comporten con arreglo a las normas de disciplina interna. El juez encargado de vigilar el cumplimiento de las condenas se ocupa también de dicho sistema, así como de la remisión y unificación de las condenas y de la puesta en libertad condicional²⁸. Cabe señalar que una sexta parte de toda pena de más de ocho años de prisión debe cumplirse en régimen cerrado antes de que el recluso pueda aprovechar el sistema progresivo. Una queja que el Relator Especial escuchó de varios detenidos se refería a que los plazos para el paso de un régimen de detención a otro solían cumplirse sin que se tomara

²⁸ Artículo 66 de la Ley de cumplimiento de sentencias.

ninguna medida pertinente. Además, según la Organización de Pastoral Carcelaria de São Paulo, al parecer hasta el 90% de las solicitudes de condenas progresivas son rechazadas sobre la base de una breve entrevista con un psicólogo y de informes elaborados previamente. El Secretario de Estado de Justicia de Pernambuco esperaba que pronto se enmendara la ley para garantizar que los reclusos puedan pasar de un régimen cerrado a un régimen semiabierto en función de la pena cumplida, con la posibilidad de que los fiscales pidan a los jueces que se pronuncien sobre la existencia de motivos para retrasar el cambio, por ejemplo motivos de seguridad. Parece ser que el Ministro de Justicia ha presentado un proyecto de ley a tal efecto.

116. Además, en el artículo 31 de la Ley de cumplimiento de sentencias se dispone que toda persona privada de libertad debe trabajar conforme a sus aptitudes y capacidades. Así pues, la condena de cada detenido debe reducirse en un día por cada tres días de trabajo. En la práctica, en los lugares de detención visitados por el Relator Especial las instalaciones no permitían que trabajasen todos los reclusos, ya fuera por problemas de falta de infraestructura o por supuestos motivos de seguridad, principalmente en razón del hacinamiento. Según las estadísticas facilitadas por la Secretaría de la Administración Penitenciaria del Estado de São Paulo, al 31 de octubre de 2000 sólo trabajaba el 61,33% de un total de 57.048 reclusos.

117. En el caso de delitos repugnantes, la condena ha de cumplirse íntegramente en régimen cerrado²⁹. Sin embargo, se han introducido cambios en virtud de la Ley contra el crimen organizado³⁰ y la Ley contra la tortura³¹, en las que se dispone que en el caso de los delitos cometidos por bandas y organizaciones criminales y del delito de tortura se impondrá una pena de prisión en régimen cerrado sólo inicialmente, permitiéndose la progresión. Al parecer, se ha estado debatiendo si estas medidas deberían ampliarse a otros delitos repugnantes. Supuestamente, en algunos fallos del Tribunal Supremo se ha dispuesto que se mantenga el régimen cerrado durante la totalidad de la condena en el caso de los demás delitos repugnantes, en tanto que en otros fallos de este tribunal se ha admitido que los cambios operados por la Ley contra la tortura se aplican a todos los delitos de esta índole.

E. Reclusión de presos condenados

1. Establecimientos penitenciarios

118. En la Ley de cumplimiento de sentencias se enumeran las instituciones correccionales donde pueden cumplirse las condenas³². Los reclusos cuya condena deba cumplirse en régimen cerrado permanecerán en prisiones o en centros penitenciarios (penitenciaria)³³. Las penas de prisión en régimen cerrado deberán cumplirse en celdas individuales que midan por lo

²⁹ Artículo 2 (1) de la Ley N° 8072, de 25 de julio de 1990.

³⁰ Ley N° 9034/95.

³¹ Ley N° 9455, de 7 de abril de 1997.

³² *Ibidem*, art. 82.

³³ *Ibidem*, art. 87.

menos 6 m²³⁴. Sin embargo, con la excepción de una prisión que visitó en el Estado de Minas Gerais (Nelson Hungria), el Relator Especial observó que en la práctica se hacía caso omiso de esta disposición. Las personas que deben cumplir condena en régimen abierto han de permanecer en una casa de albergado. Según se informa, dado que son muchos los Estados que no han creado casas de albergado, los tribunales han ordenado en tales casos la puesta en libertad provisional del detenido (que también puede obtenerse mediante el recurso de hábeas corpus). Las condenas en régimen semiabierto deben cumplirse en colonias industriales o agrícolas³⁵. Estas distintas instituciones penitenciarias pueden agruparse en un único complejo carcelario. Sin embargo, de conformidad con el artículo 5 (XLVIII) de la Constitución de la República Federativa del Brasil, "la pena será cumplida en establecimientos distintos, de acuerdo con la naturaleza del delito, la edad y el sexo del penado".

119. Durante su visita, el Relator Especial observó que los calabozos de la policía se utilizaban indistintamente como lugares de detención provisional a corto plazo y como lugares de detención para presos convictos, en razón del hacinamiento en el sistema penitenciario. Representantes de la sociedad civil en los Estados de São Paulo y Minas Gerais destacaron que la policía se había convertido en una autoridad penitenciaria de hecho, y que complementaba o casi sustituía al sistema penitenciario convencional³⁶. Como ya se ha señalado, también lamentaban esta situación algunos funcionarios de policía que reconocieron que no disponían ni de la formación ni de los recursos humanos necesarios para asumir simultáneamente las funciones de policía judicial y de guardias carcelarios.

120. En la práctica, suelen pasarse por alto las disposiciones relativas a la separación de los detenidos según su situación legal (detenidos en espera de juicio o presos convictos) o según la naturaleza del régimen al que se les ha condenado (abierto, semiabierto o cerrado). Según las organizaciones no gubernamentales, ello puede ser debido en gran parte a la división de responsabilidades entre las distintas secretarías de Estado. En la mayoría de los Estados, la Secretaría de Seguridad Pública está encargada de los calabozos de la policía mientras que la Secretaría de Justicia o de la Administración Penitenciaria (como sucede en el Estado de São Paulo) se encarga del sistema penitenciario. Los detenidos son llevados en primer lugar a los calabozos de la policía y, normalmente, sólo son trasladados a un centro penitenciario con la autorización de las autoridades penitenciarias. Al parecer, éstas son reticentes a autorizar tales traslados a un sistema penitenciario que ya está superpoblado y en el que se considera que, por consiguiente, existe un mayor riesgo de amotinamiento. Se considera que este es el motivo por el cual el hacinamiento en las prisiones nunca es tan grave como en los calabozos de la policía, incluso si ello significa que éstos acogen a cinco veces más detenidos de lo que les permite su capacidad. Al mismo tiempo, el hacinamiento en los calabozos de la policía y los retrasos en el traslado a los centros penitenciarios dan lugar a que los detenidos que se encuentran en espera de juicio y los condenados suelen permanecer juntos.

³⁴ *Ibíd.*, art. 88.

³⁵ *Ibíd.*, art. 91.

³⁶ Human Rights Watch (1998), Behind Bars in Brazil, pág. 2.

121. Las mujeres deben cumplir condena en establecimientos separados, y los mayores de 60 años han de ingresar en instituciones penitenciarias adecuadas a su situación³⁷. Las instituciones penitenciarias para mujeres estarán habilitadas para que las reclusas puedan amamantar a sus hijos³⁸. Las reclusas deben ser supervisadas por guardias del sexo femenino³⁹, lo cual no sucedía en la cárcel de mujeres que visitó el Relator Especial en São Paulo (Tatuapé). No obstante, el Relator Especial señala que no encontró a mujeres recluidas junto con los presos varones en ninguno de los lugares de detención que visitó.

2. Derechos de los reclusos

122. Con respecto a las visitas, en el artículo 41 (X) de la Ley de cumplimiento de sentencias se dispone el derecho de los presos a recibir visitas de su "cónyuge o compañera y de familiares y amigos en días establecidos con anticipación". Según la información recibida, a los visitantes se les niega en ocasiones el acceso a sus familiares, y sistemáticamente son hostigados y sometidos a humillaciones, como por ejemplo los registros al desnudo, antes de entrar a cualquier centro de detención. Al parecer, los registros raras veces se llevan a cabo conforme a las normas de higiene adecuadas y entrañan la obligación de ponerse en cuclillas y, en ocasiones, el registro de las partes íntimas del cuerpo. Supuestamente, las ancianas y los menores también son objeto de esos registros. En lo que constituye un ejemplo particularmente notable, parece ser que las autoridades del centro Nelson Hungria (Minas Gerais) trataron de impedir efectivamente el acceso de la Organización de Pastoral Carcelaria (Pastoral Carcerária) decidiendo que sus miembros deberían someterse a un registro de esa índole. Además, según han manifestado presos convictos recluidos en prisiones o en calabozos de la policía, sólo los padres y, en ocasiones, las esposas y los hijos de cierta edad, obtienen autorización para visitarlos. Las autoridades pertinentes de los lugares de detención justificaron esta política alegando motivos de seguridad y la falta de una infraestructura adecuada.

123. Con respecto a la alimentación y el vestido, en el artículo 41 (I) de la Ley de cumplimiento de sentencias se dispone el derecho de los reclusos a alimentos y vestido adecuados. Sin embargo, en la mayoría de los centros de detención visitados por el Relator Especial, si no en todos, los detenidos se quejaron de la mala calidad de la comida, afirmando que con frecuencia estaba en mal estado. Ciertamente, al Relator Especial los alimentos y el café que se servían en la mayoría de los centros de detención le parecieron de muy mala calidad. Los detenidos se quejaban de que a los visitantes se les prohibía traerles alimentos, salvo productos tales como galletas. El Relator Especial también señala que la mayoría de los detenidos iban medio desnudos o carecían de ropa adecuada.

124. En relación con el acceso a la asistencia médica, los presos tienen derecho a medicamentos y tratamiento médico y odontológico⁴⁰. En caso de que la institución penitenciaria no disponga

³⁷ Artículo 37 del Código Penal y artículo 82 de la Ley de cumplimiento de sentencias.

³⁸ Artículo 83 (2) de la Ley de cumplimiento de sentencias.

³⁹ *Ibidem*, art. 77 (2).

⁴⁰ *Ibidem*, art. 41.

de instalaciones aptas para dispensar la asistencia médica necesaria, se prestará en otro lugar con la autorización del director⁴¹. En la Ley de cumplimiento de sentencias se dispone además que los detenidos tienen derecho a contratar, por conducto de sus parientes o familiares a cargo, los servicios de un médico al que conozcan personalmente los propios detenidos o sus familiares, a fin de que proporcione orientación y supervise el tratamiento⁴².

125. La inmensa mayoría de los centros de detención provisional y las prisiones visitados por el Relator Especial se caracterizaban por la falta de recursos médicos, tanto de personal calificado como de medicamentos. Según se afirmó, a los detenidos se les había denegado la asistencia médica. En la casa de detenção de Carandiru (São Paulo), el Relator Especial observó con preocupación un cartel en el quinto piso que indicaba que la enfermería carecía de medicamentos, que el médico vendría una vez por semana y que sólo se le daría el nombre de diez reclusos para que los atendiera. Al parecer, el tratamiento médico fuera de la prisión se organizaba raras veces y con reticencia. La supuesta falta de vehículos o de policías militares disponibles para escoltar a los enfermos al hospital, la ausencia de planificación o de citas concertadas y, en algunos casos, la escasa disposición de los médicos a atender a reclusos daban lugar con frecuencia a la denegación de un tratamiento médico rápido y adecuado. Con respecto a la situación en muchas de las comisarías visitadas, que en la mayoría de los casos albergaban a un número importante de presos convictos, el Relator Especial recibió denuncias de que los reclusos que requerían un tratamiento médico urgente no eran trasladados a los hospitales, o sólo lo eran de forma tardía, a pesar de que ninguna de esas comisarías disponía de instalaciones sanitarias. Además, supuestamente se amenazaba a los presos con el apaleamiento si pedían atención médica. Por todo ello, parece ser que las enfermedades comunes que afectaban a un gran número de reclusos, como erupciones cutáneas, resfriados, amigdalitis o gripe, raramente se trataban. Por consiguiente, el Relator Especial remitió a varios detenidos que obviamente necesitaban con urgencia un tratamiento médico adecuado a los buenos oficios de los funcionarios encargados.

3. Disciplina interna

126. En relación con las normas de disciplina internas, la Ley de cumplimiento de sentencias regula la imposición de sanciones disciplinarias, que pueden ir desde una amonestación verbal y la suspensión de las visitas hasta la incomunicación en la propia celda o en cualquier lugar pertinente en el caso de los establecimientos penitenciarios en que las celdas sean colectivas⁴³. La incomunicación debe ser impuesta por un consejo disciplinario, y no solamente por el director de la prisión, y debe notificarse al juez encargado de vigilar el cumplimiento de las condenas. La incomunicación y la suspensión o restricción de derechos sólo podrán aplicarse en caso de infracciones graves⁴⁴, como la instigación o la participación en un movimiento destinado a subvertir el orden o la disciplina, el intento de fuga, la posesión de un arma o la provocación de

⁴¹ *Ibidem*, art. 41 (2).

⁴² *Ibidem*, art. 43.

⁴³ Artículo 53 de la Ley de cumplimiento de sentencias.

⁴⁴ *Ibidem*, art. 58.

un accidente de trabajo⁴⁵, y no por más de 30 días⁴⁶. Cabe señalar que podrá ordenarse la incomunicación cautelar por un máximo de 10 días a efectos disciplinarios o de verificación de los hechos, días que se descontarán del período de sanción disciplinaria⁴⁷. No podrá imponerse ninguna medida disciplinaria sin que exista una clara disposición jurídica anterior y sin que haya tenido lugar un procedimiento en el que se haya garantizado la defensa del sospechoso⁴⁸. Para aplicar la medida, deberán tenerse en cuenta el propio culpable de la infracción, así como el carácter de la misma, sus circunstancias y sus consecuencias⁴⁹. Las medidas disciplinarias no podrán afectar la integridad física y moral del recluso. Se prohíbe el uso de celdas oscuras y de castigos colectivos.

127. El Relator Especial observó que en muchos casos los reclusos habían sido incomunicados como castigo por infracciones menores, como por ejemplo por estar en posesión de un teléfono móvil o por ofender a un guardia de la prisión, o porque habían sido amenazados por otros presos. En algunos casos, se les había privado de sus pertenencias y de su ropa. El límite de 30 días no siempre se respetaba, ya que algunos reclusos afirmaron haber permanecido incomunicados o bien encerrados en celdas de castigo durante más de dos meses. En la mayoría de los casos, si no en todos, los detenidos en celdas de castigo declararon que se les había encerrado en ellas por decisión del director de la prisión o del encargado de la seguridad. No habían sido oídos por ningún otro órgano, como por ejemplo el consejo disciplinario que se menciona más arriba. Por consiguiente, no habían podido dar su versión de los hechos ni defenderse. Muchos de ellos no sabían durante cuánto tiempo permanecerían incomunicados o en celdas de castigo. Esta situación era particularmente flagrante en la prisión de Anibal Bruno (Estado de Pernambuco), donde el Relator Especial, que había recibido de las autoridades de la prisión la lista de castigos, terminó por informar personalmente a los reclusos de los motivos y la duración de su castigo. Algunos reclusos mencionaron la existencia de castigos colectivos (véanse más arriba y el anexo). En particular, se afirmó que se habían suspendido indiscriminadamente las visitas a todos los presos por hechos en los que habían participado sólo algunos de ellos.

4. Supervisión

128. Con respecto a la supervisión externa de las prisiones, la Ley de cumplimiento de sentencias establece siete mecanismos para supervisar el cumplimiento de las condenas, seis de los cuales tienen funciones de vigilancia de los establecimientos penitenciarios⁵⁰. Esos

⁴⁵ *Ibidem*, art. 50.

⁴⁶ *Ibidem*, art. 58.

⁴⁷ *Ibidem*, art. 60.

⁴⁸ *Ibidem*, arts. 45 y 59.

⁴⁹ *Ibidem*, art. 57.

⁵⁰ Artículo 61 de la Ley de cumplimiento de sentencias.

mecanismos son el Consejo Nacional de Política Penal y Penitenciaria⁵¹, los jueces encargados de vigilar el cumplimiento de las condenas, los fiscales, el Consejo Penitenciario (es decir, los consejos penitenciarios locales), el Departamento Penitenciario y el Consejo Comunitario. En particular, importa señalar que los jueces encargados de vigilar el cumplimiento de las condenas⁵², al igual que los fiscales⁵³, deben inspeccionar los establecimientos penitenciarios mensualmente para verificar que se respeten las disposiciones de la Ley de cumplimiento de sentencias. Los consejos penitenciarios, que deben estar integrados por cuatro profesionales y profesores de derecho penal, nombrados por el Gobernador del Estado, tienen una obligación similar⁵⁴ y deben presentar al Consejo Nacional de Política Penal y Penitenciaria un informe sobre sus conclusiones en el primer trimestre de cada año. Por último, conforme a la Ley de cumplimiento de sentencias, cada distrito debe establecer un consejo comunitario, integrado por personas de distintas profesiones⁵⁵, que tendrá el deber de "visitar, por lo menos una vez al mes, los establecimientos penitenciarios de la zona, entrevistarse con los presos, presentar informes mensuales al juez encargado de vigilar el cumplimiento de las condenas y al Consejo Penitenciario y tratar de adquirir material y obtener recursos humanos, en colaboración con el director del establecimiento, para lograr que se atiendan mejor las necesidades de los presos y los detenidos"⁵⁶. Importa señalar que en el Estado de São Paulo también hay una División Administrativa de Asuntos Internos del Sistema Penitenciario, que depende de la Secretaría de Estado de la Administración Penitenciaria y que se encarga de la inspección de los centros de detención. Por último, el Relator Especial señala el papel fundamental que desempeña en la vigilancia del respeto de los derechos humanos la Organización de Pastoral Carcelaria (Pastoral Carceiraria), que tiene una categoría cuasi oficial y dispone de acceso a todos los lugares de detención del país. Sin embargo, se lamentó de que, a pesar de la dedicación de sus miembros,

⁵¹ El Consejo Nacional de Política Penal y Penitenciaria, que depende del Ministerio de Justicia (artículo 62 de la Ley de cumplimiento de sentencias), tiene el mandato federal y estatal de inspeccionar y supervisar los centros penitenciarios, y de obtener información, mediante los informes del Consejo Penitenciario, solicitudes, visitas u otros medios, sobre el cumplimiento de las condenas en los Estados, los territorios y el distrito federal, así como de proponer a las autoridades pertinentes las medidas necesarias para su mejora y de solicitar al juez encargado de vigilar el cumplimiento de las condenas o a cualquier otra autoridad administrativa que se haga una investigación o se abra un procedimiento administrativo cuando se hayan violado las disposiciones de la ley.

⁵² Ley de cumplimiento de sentencias, art. 66.

⁵³ *Ibidem*, art. 68.

⁵⁴ *Ibidem*, art. 70 (II).

⁵⁵ De conformidad con el artículo 80 de la ley, los consejos comunitarios deben estar integrados por lo menos por un representante de una asociación comercial o industrial, un abogado elegido por el Colegio de Abogados del Brasil (Ordem dos Advogados do Brasil) y un trabajador social seleccionado por la delegación local del Consejo Nacional de Trabajadores Sociales.

⁵⁶ Ley de cumplimiento de sentencias, art. 81.

la organización carcelaria de recursos humanos en algunos lugares para desempeñar sus funciones adecuadamente.

129. A pesar de todas estas disposiciones, parece ser que en muchos casos la inspección de los lugares de detención se ha visto entorpecida por las autoridades penitenciarias. Según un fiscal con quien se entrevistó el Relator Especial en Brasilia, los fiscales no están autorizados a visitar las comisarías ni las prisiones. Al parecer, a los miembros de los consejos comunitarios se les ha impedido entrar a las prisiones y se han visto hostigados por unas autoridades carcelarias poco dispuestas a cooperar. En el Estado de São Paulo, de conformidad con el Decreto N° 17 de 29 de junio de 2000, las organizaciones no gubernamentales que se ocupan de los derechos del niño deben pedir permiso al Presidente de la FEBEM, con un mínimo de cinco días de antelación, para visitar sus dependencias.

130. Por último, el Relator Especial toma nota de la siguiente recomendación formulada por la Comisión de Derechos Humanos de la Cámara de Diputados, por la que se pide al Gobierno federal que someta a determinadas condiciones la entrega de dinero con cargo al Fondo Penitenciario o al Fondo de Seguridad Nacional, en particular la supresión del registro corporal de los visitantes, la garantía del derecho a visitas conyugales, el respeto de determinadas normas mínimas de detención, la confección de un calendario para el traslado de todos los presos convictos recluidos en las comisarías de policía y la exposición de un programa para garantizar asistencia letrada a todos los presos.

F. Delincuentes juveniles

131. En el caso de "infracciones"⁵⁷ cometidas por adolescentes y niños⁵⁸, el Estatuto del Niño y el Adolescente (Ley N° 8069, de 13 de julio de 1990) prevé medidas que van desde la amonestación, la obligación de reparar el daño, el servicio comunitario⁵⁹, la libertad asistida⁶⁰ y

⁵⁷ En relación con la responsabilidad Penal de los niños, el artículo 228 de la Constitución estipula que "los menores de 18 años sujetos a las normas de la legislación especial no son penalmente imputables". El artículo 104 del Estatuto del Niño y el Adolescente de 1990 estipula que "con sujeción a las medidas especificadas en la presente ley, las personas menores de 18 años no son penalmente imputables".

⁵⁸ El artículo 2 del ECA dispone que se considera niño a una persona que todavía no ha cumplido los 12 años de edad y adolescente a una persona entre 12 y 18 años de edad. En los casos especificados por la ley, el Estatuto se aplica a personas cuya edad está entre 18 y 21 años.

⁵⁹ Según el artículo 117 del ECA, el servicio comunitario "consiste en la realización de tareas no remuneradas de interés general durante no más de seis meses en hospitales, escuelas, otras instituciones semejantes y en los programas de la comunidad y del Estado".

⁶⁰ Los artículos 118 y 119 del ECA disponen que una persona calificada "promoverá socialmente al adolescente y su familia", vigilará la asistencia a la escuela y prestará asistencia mediante formación profesional y trabajo para que el adolescente se integre en el mercado laboral. La medida durará un período mínimo de seis meses, que puede prorrogarse.

la semilibertad⁶¹ hasta el ingreso en una institución educativa o medidas de asistencia a la familia u otras medidas definidas en el artículo 101 del Estatuto⁶². El artículo 122 del Estatuto dispone que el ingreso en una institución sólo se aplicará si la infracción se cometió "mediante una amenaza grave o violencia contra una persona" o si el caso comprende la repetición de otras infracciones graves y también si el caso comprende "el incumplimiento reiterado e injustificado de medidas impuestas previamente", en cuyo caso sólo puede imponerse durante un período de tres meses. El máximo período de ingreso no superará los tres años, después de lo cual debe dejarse en libertad al adolescente o incluirlo en un régimen de semilibertad o libertad asistida. El mantenimiento de la medida de internación deberá evaluarse de nuevo cada seis meses. A la edad de 21 años, la puesta en libertad es obligatoria⁶³.

132. De conformidad con el artículo 106, "no se privará a ningún adolescente de su libertad si no se le detiene en flagrante delito o por orden escrita y fundamentada de la autoridad judicial competente". Se notificará inmediatamente de la detención y del lugar donde está detenido el menor a la autoridad judicial competente, a sus padres o cualquier otra persona indicada por el menor⁶⁴. De conformidad con el artículo 108 del Estatuto los niños y adolescentes pueden ser detenidos provisionalmente antes de ser sentenciados durante un período máximo de 45 días. De conformidad con el párrafo 1 del artículo 141 del Estatuto los menores sospechosos deben tener acceso a la oficina del defensor público, a la Fiscalía General y al poder judicial y debe prestarse asistencia letrada de oficio a quienes lo necesiten por conducto del defensor público o de un abogado designado⁶⁵.

133. Según los fiscales para niños y adolescentes de São Paulo, cuando un menor es detenido se le lleva a la comisaría de policía para rellenar los formularios preliminares. Los menores no

⁶¹ Según el artículo 120 del ECA, la semilibertad puede determinarse como una medida de transición al sistema abierto o ya desde el principio; no está sujeta a limitaciones de tiempo y obliga a recibir educación y formación profesional.

⁶² El artículo 101 prevé lo siguiente: II -orientación, apoyo y vigilancia provisionales; III -ingreso obligatorio en instituciones educativas del Estado y asistencia a ellas; IV -inclusión en programas de la comunidad o del Estado de asistencia a la familia, niños y adolescentes; V -tratamiento médico, psicológico o psiquiátrico en un hospital o servicio ambulatorio; VI -inclusión en un programa del Estado o de la comunidad de asistencia, orientación y tratamiento de alcohólicos y drogadictos; VII -vivienda; VIII -ingreso en una familia de acogida.

⁶³ Artículo 121 del ECA.

⁶⁴ *Ibidem*, art. 107. Los artículos 230 y 231 del ECA disponen que el incumplimiento de estas disposiciones se castigará con pena de prisión de seis meses a dos años. El artículo 234 dispone además que se someterá a idéntico castigo el hecho de que, sin una causa justa, la autoridad competente deje de ordenar la inmediata puesta en libertad del adolescente cuando se entere de los hechos.

⁶⁵ El artículo 142 del ECA dispone que los menores de menos de 16 años estarán representados y que quienes tengan "16 años o más, pero menos de 21 años... recibirán asistencia de sus padres, tutores o guardianes", según la legislación civil y procesal.

deben ser retenidos en la comisaría durante más de 24 horas y durante este período deben tener acceso a un abogado. Sólo unos pocos pueden permitirse un abogado privado, por lo que en general los fiscales prestan asistencia a los menos sospechosos y, después de haber oído las circunstancias, pueden pedir que se siga investigando el caso o pueden decidir archivar las acusaciones por falta de pruebas. Solamente en el caso de delitos graves puede el fiscal transmitir el expediente a un juez y pedir la detención temporal. En el Estado de São Paulo, los menores detenidos son ingresados provisionalmente en la Unidade de Atendimento Inicial. Según la información, la primera audiencia suele tener lugar al cabo de una semana. Sólo los menores condenados pueden ser trasladados a un establecimiento de la FEBEM. Los fiscales de São Paulo creen que sólo se informa a la familia en dos de cada tres casos.

134. Según el artículo 123 del Estatuto los delincuentes juveniles deben ser interesados en un establecimiento "reservado exclusivamente" para ellos y sujeto a una "separación rigurosa" por motivos de edad, constitución física, temperamento y gravedad de la infracción. Además, entre los derechos garantizados por el Estatuto⁶⁶, cabe señalarse que deben ser internados en una localidad cercana al hogar de los padres, recibir visitas por lo menos semanalmente, vivir en condiciones higiénicas, desarrollar actividades de ocio y conservar sus posesiones personales. Está absolutamente prohibida la detención en situación de incomunicación. El artículo 94 del Estatuto esboza las obligaciones que incumben a las instituciones de llevar a cabo "programas para internos", como ofrecer tratamiento personalizado en pequeñas dependencias, dar trabajo para el restablecimiento y la preservación de los vínculos familiares, tener instalaciones en condiciones adecuadas de habitabilidad, higiene, salud y seguridad y proporcionar los objetos necesarios para el aseo personal, garantizar una nutrición y vestidos suficientes, ofrecer cuidado médico, psicológico y odontológico, impartir educación y formación profesional, facilitar actividades culturales, deportivas y recreativas, así como asistencia religiosa, si así lo desea. El párrafo VIII del artículo 201 del Estatuto dispone que es obligación de la Fiscalía General "velar por el respeto efectivo de los derechos y las garantías jurídicas estipulados para niños y adolescentes, y patrocinar medidas apropiadas de índole judicial y extrajudicial"⁶⁷.

⁶⁶ Artículo 124 del ECA.

⁶⁷ De conformidad con el artículo 86 del ECA, los derechos de los menores se realizarán mediante iniciativas conjuntas del Gobierno federal, los Estados, el Distrito Federal (Brasilia) y los municipios. El artículo 88 prevé, entre otras cosas, el establecimiento de consejos municipales, estatales y nacionales sobre los derechos de los niños y adolescentes, encargados de vigilar que se ejerzan en todos los niveles, con la participación de organizaciones no gubernamentales y del poder judicial, la Fiscalía General, la oficina del defensor público, la seguridad pública y la asistencia social, con miras a facilitar la asistencia inicial a los adolescentes a quienes se atribuya una infracción. El artículo 131 del Estatuto dispone la creación de un Consejo de Tutela, una entidad permanente y autónoma sin jurisdicción alguna, formada por miembros del municipio encargados de vigilar la realización de los derechos que figuran en el Estatuto. Su deber consiste, entre otras cosas, en informar a la Fiscalía General de los hechos que constituyan "infracciones administrativas o penales contra los derechos de niños o adolescentes" (párrafo IV) del artículo 136) y vigilar la aplicación del artículo 101 del ECA a los delincuentes juveniles.

135. Durante su visita a las instalaciones de detención de menores delincuentes en São Paulo y Rio de Janeiro (véase más arriba) el Relator Especial observó que no estaban separados por edad, constitución física o gravedad del delito por el cual estaban retenidos o habían sido sentenciados. En lugar de ello estaban todos juntos de modo indiscriminado, inclusive los detenidos con problemas mentales. Las organizaciones no gubernamentales y los fiscales para niños y adolescentes de São Paulo también subrayaron la falta de asistencia psicológica adecuada y el hecho de que el diseño de los establecimientos donde estaban detenidos no hacía posible las actividades de recreo o educación.

G. Procedimientos de denuncia

136. Según la información recibida, los acusados a veces formulan denuncias relativas a torturas y otras formas de malos tratos, en especial durante las primeras audiencias ante los tribunales. Sin embargo, el Relator Especial señala que algunos de los detenidos con quienes se entrevistó indicaron que, a causa de la presencia constante de los funcionarios encargados de hacer cumplir la ley, en estas circunstancias no se atrevían por temor a las represalias a quejarse de los tratos que habían recibido, porque generalmente se les devolvía a los mismos calabozos de la policía donde habían sido supuestamente torturados. Además, en la mayoría de los casos dijeron que sus denuncias no obtenían respuesta de los jueces. El Relator Especial señala también que entre la población de detenidos estaba generalizada la creencia de que denunciar las torturas al sistema judicial no servía de nada. Los defensores públicos debían informar de las alegaciones a la comisaría de policía y pedir que se llevara a cabo un examen forense. Entonces, la corregedoria (véase más adelante) debía incoar un procedimiento administrativo e informar al ministerio público. Las organizaciones no gubernamentales y los abogados que se ocupan de derechos humanos alegan que a menudo pasa mucho tiempo antes de que la información llegue al ministerio público y de que se inicie una investigación penal. Se sugirió a este respecto que una mayor interacción entre los defensores públicos y los fiscales contribuiría realmente a acelerar el proceso. En los distintos Estados, algunos organismos públicos están encargados de vigilar el comportamiento de la policía.

1. El ministerio público

137. El ministerio público está encargado de vigilar los procesos de todos los acusados. El artículo 129 de la Constitución estipula que el ministerio público está encargado exclusivamente, entre otras cosas, de promover la acción penal pública, "II. velar por el efectivo respeto de los poderes públicos y de los servicios de relevancia pública para los derechos garantizados en esta Constitución, promoviendo las medidas necesarias para su garantía... VII. ejercer un control externo de la actividad policial [y] VIII. requerir diligencias de investigación y la formulación de demanda policial, indicando los fundamentos jurídicos de sus manifestaciones policiales". Debe señalarse que esto se ha interpretado en el sentido de que el ministerio público tiene la capacidad de llevar a cabo investigaciones penales independientes incluso en los casos en que no se ha iniciado una indagación policial o en que la investigación policial está todavía pendiente o se ha archivado, y de que puede procesar a funcionarios encargados de hacer cumplir la ley que hayan participado en actividades criminales como la tortura. Por consiguiente, la indagación policial no es un procedimiento obligatorio cuando un fiscal posea suficientes datos prima facie (indicios). Además, no hay ninguna disposición jurídica que impida al ministerio público reunir datos prima facie con medios distintos de los de una indagación policial, por ejemplo mediante una investigación civil o administrativa. Según

los fiscales con quienes se entrevistó el Relator Especial, esta interpretación es el tema de uno de los más graves enfrentamientos institucionales de la actualidad, puesto que la policía se resiste mucho a aceptarla. Está actualmente ante el Congreso un proyecto de ley sobre la policía civil, cuyo objeto es dar más poder a los fiscales en las investigaciones de la policía. En relación con ello, el Presidente del Tribunal Federal de Apelación señaló al Relator Especial que había denunciado públicamente que políticos sometidos a las presiones de la fuerza de policía estaban intentando socavar la capacidad de los fiscales de vigilar el comportamiento de la policía.

138. Las denuncias de tortura por funcionarios encargados de hacer cumplir la ley, al parecer, se envían directamente a la corregedoria, la cual debe hacer una investigación. En esta etapa, el ministerio público generalmente sólo puede iniciar otra investigación cuando recibe el expediente de la policía. Se afirma que estas investigaciones por la policía se prolongan mucho porque los agentes no tienen mucho interés en investigar el comportamiento de sus colegas. Se dice también que es difícil que un fiscal investigue delitos cometidos en comisarías de policía. Por ejemplo, en 1995 funcionarios armados de la policía cerraron el paso a algunos fiscales que querían entrar a una comisaría de policía en Gama (Brasilia). Según el Procurador General de la República, el ministerio público puede iniciar una investigación penal si la corregedoria está realizando una investigación administrativa paralela. Sin embargo, el Procurador General reconoció que difícilmente los fiscales podrían aportar pruebas adicionales, por la escasez de medios de que disponen. También expresó su desaliento porque a causa de la duración de la investigación administrativa suele pasar mucho tiempo antes de que los casos lleguen al ministerio público. Se afirma también que esta parte inicial del proceso, tan prolongada, favorece la impunidad porque en algunos casos el procesamiento queda ya invalidado al haber prescrito cuando el expediente llega a manos del fiscal.

139. En Belo Horizonte, Estado de Minas Gerais, se ha creado una división especial de derechos humanos dentro del ministerio público para procesar las violaciones de los derechos humanos. En el momento de la visita del Relator Especial, trabajaba en esta división un fiscal de derechos humanos que había recibido más de 600 acusaciones de malos tratos, lesiones corporales y torturas y que había procesado a unos 2.000 agentes de policía por violaciones de derechos humanos. Los fiscales también visitaban distintos lugares de detención, entre ellos calabozos de la policía, sin previo aviso. La sociedad civil acusó a las autoridades de no suministrar recursos suficientes al ministerio público para procesar los casos de tortura.

140. Los interlocutores de la sociedad civil a menudo temían que, por ser el director o la directora del ministerio público nombrados por el gobernador, quizá no era siempre auténticamente independiente del poder político. Además, en algunos casos se llamó a la atención del Relator Especial el hecho de que la prioridad del ministerio público era a menudo la lucha contra la criminalidad. Se asignan a las divisiones de los fiscales que se ocupan de los derechos humanos recursos relativamente escasos, tanto humanos como económicos.

141. Por último, la Fiscal Federal encargada de defender los derechos del ciudadano informó al Relator Especial de que si bien su oficina podía investigar toda supuesta violación de los derechos humanos por agentes federales, estatales o municipales, inclusive recibiendo información de cualquier fuente, en la práctica era muy difícil reunir información y declaraciones sobre incidencias de tortura debido, entre otras cosas, a la lentitud de la justicia, al temor a las represalias y en especial a la falta de una protección inmediata, duradera y eficaz de

las víctimas⁶⁸, los testigos y sus familiares, un número insuficiente de personal calificado, la existencia de un sistema judicial separado para el personal militar y la dificultad de obtener pruebas de los peritos forenses, en especial debido a su relación de subordinación con las autoridades encargadas de la seguridad pública.

2. Corregedorias

142. Los departamentos de policía de los Estados han establecido una división de asuntos internos (corregedoria), encargada de llevar a cabo las investigaciones administrativas iniciales sobre atropellos de la policía. Generalmente hay dos corregedorias, una para la policía civil y otra para la policía militar. Sin embargo, en el Estado de Pernambuco había una sola corregedoria para ambos servicios de policía (que están unificados bajo la autoridad de la Secretaría de Estado de Protección Social). Preside la corregedoria un antiguo fiscal a fin de garantizar su independencia de la policía, según el Secretario de Estado de Protección Social. Con arreglo a la información recibida de los corregedores, si bien tienen poder para proponer el despido de agentes de policía, solamente el Gobernador puede decidir esta cuestión. Otras formas de sanciones disciplinarias comprenden amonestaciones o la suspensión. Según la información dada al Relator Especial, una de las sanciones administrativas corrientes es la traslación del agente culpable a otra comisaría de policía, especialmente una situada en una zona remota. Se considera que esto acentúa la brutalidad policial en el campo y fortalece la impunidad en regiones que ya quedan muy lejos de la estrecha vigilancia ejercida por las ouvidorias y la sociedad civil urbana que es más activa. En enero de 2000, la Secretaría de Estado para la Seguridad Pública de São Paulo presentó, según se dijo, una propuesta al Parlamento, aprobada por el Foro Nacional de Defensores adscritos a la policía, en que pedía una reforma constitucional para crear una corregedoria autónoma y unificada encargada de garantizar la supervisión externa de la policía.

3. Ouvidorias

143. Se han establecido en los departamentos de policía de algunos Estados oficinas del defensor adscrito a la policía (ouvidorias) como órgano adicional de supervisión para vigilar el comportamiento de la policía. La primera ouvidoria se fundó en el Estado de São Paulo en 1995. Desde entonces se han establecido en los Estados de Pará, Minas Gerais, Rio de Janeiro y Rio Grande do Sul. Las ouvidorias están bajo la jurisdicción del Secretario de Estado para la Seguridad Pública.

144. El ouvidor del Estado de São Paulo, que oficia de defensor del pueblo de la policía militar y civil⁶⁹, informó de que, durante los cuatro años anteriores, su oficina había

⁶⁸ Desde 1996, siete Estados han adoptado un programa de protección de testigos basado en el modelo PROVITA, en el que grupos de la sociedad civil asumen la responsabilidad primaria de proteger a los testigos y el Gobierno garantiza los recursos económicos. Este modelo ofrece una alternativa a muchos programas de los Estados que, según se informa, han sido criticados por mantener a los testigos en condiciones "casi carcelarias". Sin embargo, según la información recibida, el programa PROVITA no se aplica a testigos con antecedentes penales.

⁶⁹ Según el ouvidor, trabajan en el Estado de São Paulo unos 37.000 agentes de policía.

recibido 764 acusaciones de tortura que afectaban a 3.000 personas y que se referían principalmente a atropellos de la policía en las comisarías y centros de detención provisional. El ouvidor lamentó que sólo se hubiesen iniciado cinco investigaciones penales con arreglo a la Ley contra la tortura. Todas las denuncias de tropelías policiales recibidas por la ouvidoria deben transmitirse primero a la corregedoria, que decide si hay suficientes pruebas para iniciar una investigación administrativa. Según el ouvidor, los casos que afectan a agentes de la policía militar, especialmente de rango alto, son atendidos contra su voluntad por la corregedoria de la policía militar puesto que el mismo corregedor está subordinado al mando militar. También señaló que los casos transmitidos a la corregedoria de la policía civil a menudo no eran objeto de ninguna investigación.

145. Por último el ouvidor señaló que la policía cuando comete abusos en el interior del país goza de una impunidad casi total. Para remediar esta situación, había propuesto descentralizar las actividades de su oficina. Se informó de que a este fin se habían aprobado dos decretos, pero que todavía no se habían publicado cuando el Relator Especial realizó su visita y que, por consiguiente, no podían aplicarse. Debe señalarse que las ouvidorias pueden transmitir directamente un caso a la Fiscalía si disponen de pruebas suficientes aunque el caso se haya cerrado anteriormente en la policía o la corregedoria. El ouvidor hizo hincapié en que, si los fiscales pudiesen seguir los casos desde el inicio de las indagaciones en lugar de basarse en pruebas reunidas por la policía, mejoraría mucho la lucha contra la impunidad. Afirmó al igual que las organizaciones no gubernamentales, que si bien los fiscales tienen el poder de llevar a cabo sus propias investigaciones, raramente lo ejercen y se basan principalmente en las investigaciones de la policía, que nunca ponen en duda.

146. En Minas Gerais, la creación en 1998 de la ouvidoria encargada de las cárceles y de la policía civil, se dice que ha reducido las denuncias por tortura. Esta oficina está formada únicamente por la defensora adscrita a la policía, un asesor, un secretario ejecutivo y un pasante. El equipo no dispone de asesor jurídico, por lo que se considera difícil que la ouvidoria aplique un enfoque jurídico a los casos que tramita. Se dice que el fiscal encargado de casos de derechos humanos coopera con la ouvidoria. Se señaló que los casos de denuncia contra la policía militar se someten directamente al mando militar.

4. Instituto de Medicina Legal (Instituto Medico-Legal, IML)

147. Las víctimas de tortura deben solicitar un formulario médico de un delegado para poder ser examinados en un instituto de medicina legal (IML). Estos institutos están bajo la jurisdicción de la misma secretaría que la policía, a saber, la Secretaría de Estado para la Seguridad Pública. Según el Fiscal del Estado de São Paulo, al producirse una detención por orden judicial es obligatorio un examen forense de las personas detenidas y debe realizarse otro examen cuando vence la detención temporal. Según organizaciones no gubernamentales y algunos fiscales, los delegados o los agentes de policía que acompañan a una víctima de torturas al instituto a menudo dictan al médico el contenido de peritación. Además, algunos detenidos con quienes se entrevistó el Relator Especial dijeron que por temor a las represalias no denunciaban el trato recibido cuando pasaban un examen en el instituto. Muchos se quejaron de que sus mismos torturadores los llevaron al instituto y los intimidaron y amenazaron en el trayecto. Se cree que algunos de ellos se inventan historias para responder a las preguntas de los médicos a fin de no implicar a ningún funcionario encargado de hacer cumplir la ley. Se dice que eso pasa también cuando la supuesta tortura tuvo lugar en una cárcel, porque en tales casos las víctimas son

acompañadas por agentes de la policía militar que en algunos Estados participan también en la vigilancia de las cárceles. El Secretario de Estado de Protección Social de Pernambuco negó las acusaciones, oídas con frecuencia por el Relator Especial, de que los funcionarios agentes del orden estaban generalmente presentes en las salas del instituto de medicina legal en que se realizan los exámenes. También se afirmó que los peritos forenses del instituto sólo toman nota de las heridas externas y visibles. Además, se dice que el informe médico de un médico independiente no tiene el mismo valor probatorio ante un tribunal que el testimonio del instituto.

148. Aunque no es posible evaluar hasta qué punto las afirmaciones citadas revelan la existencia de un problema generalizado, es evidente que el problema es bastante real en relación con un número importante de funcionarios de los institutos de medicina legal. Además, mientras estos funcionarios estén bajo la misma autoridad del Estado que la policía es imposible que desaparezcan las dudas sobre la confianza que merecen sus resultados.

H. Tipificación de la tortura como delito

149. El 28 de septiembre de 1989, el Brasil ratificó la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes de 1984, y el 26 de mayo de 2000, presentó su informe inicial en virtud del artículo 19 (CAT/C/9/Add.16), que debía presentar en octubre de 1990. Según ese informe, el artículo 5 de la Constitución de la República Federativa del Brasil, de 5 de octubre de 1988, enumera los derechos garantizados en los tratados internacionales en los que el Brasil ha adquirido la calidad de Parte que son, pues, derechos constitucionales directamente aplicables.

150. Con relación a la prohibición de la tortura, ese artículo dispone que "todos son iguales ante la ley, sin distinción de ninguna naturaleza, garantizándose a los brasileños y a los extranjeros residentes en el país la inviolabilidad del derecho a la vida, a la libertad, a la igualdad, a la seguridad y a la propiedad en los términos siguientes: ...III - nadie será sometido a tortura ni a trato inhumano o degradante". El artículo 5 (XLIII) de la Constitución dice que, al igual que otros delitos repugnantes, la práctica de la tortura no es susceptible de libertad bajo fianza ni de indulto o amnistía, respondiendo de ello los incitadores, los ejecutores y los que pudiendo evitarlos se abstuvieran. El artículo 5 (XLVI) e) prohíbe las penas "cruelles" y el artículo 5 (XLIX) dispone que "está asegurado a los presos el respeto a la integridad física y moral". Del mismo modo, el artículo 40 de la Ley de cumplimiento de sentencias dispone que "todas las autoridades tienen la obligación de respetar la integridad física y mental de los condenados y los detenidos temporales" y el artículo 45 prohíbe el castigo que viole "la integridad física y moral del condenado" (párr. 1) y el castigo colectivo (párr. 3) y el uso de celdas oscuras (párr. 2). Por último, el artículo 5 del Estatuto del Niño y el Adolescente dice que "ningún niño ni adolescente será sometido a ninguna forma de abandono, discriminación, explotación, violencia, crueldad u opresión, y toda violación de sus derechos fundamentales, por acción u omisión, será castigada conforme a la ley".

151. El delito de tortura fue definido nueve años más tarde en el artículo 1 de la Ley N° 9455, de 7 de abril de 1997 (en adelante la Ley contra la tortura), así:

"Artículo 1 - El delito de tortura se define como:

I - Ejercer coacción sobre alguien, mediante el uso de violencia o amenazas graves que le causen sufrimientos físicos o mentales con el propósito de obtener información, declaraciones o confesiones de la víctima o de un tercero; para provocar acciones u omisiones de carácter delictivo; por motivos de discriminación racial o religiosa;

II - Cuando el que tiene la guarda, potestad o autoridad sobre una persona inflige a ésta, mediante violencia o amenazas graves, sufrimientos físicos o mentales intensos, con objeto de aplicar un castigo personal o como medida preventiva."

Pese a que la tortura está definida en términos análogos a los del artículo 1 de la Convención de 1984, la definición contenida en la legislación brasileña no es un fiel trasunto de la definición de la tortura internacionalmente acordada. Limita los actos de tortura a "violencia o amenazas graves" mientras que la definición contenida en la Convención habla de "todo acto". Así, no comprende los actos que no sean violentos en sí, pero que tal vez de todos modos inflijan "dolores o sufrimientos graves, ya sean físicos o mentales". También cabe señalar que, con arreglo a la definición del Brasil, el delito de tortura no está limitado a actos cometidos por funcionarios públicos. No obstante, se estipula que el castigo es aún más severo "si el delito es perpetrado: a) por un funcionario público..."⁷⁰.

152. Si bien la ley dispone que se condene a una pena de dos a ocho años de prisión a la persona declarada culpable de tortura, habrá que incrementar la pena en un máximo de una tercera parte en el caso de los funcionarios públicos⁷¹. La misma pena, es decir dos a ocho años de prisión, se aplica a "quienes sometan a una persona encarcelada u objeto de medidas de seguridad a sufrimientos físicos o mentales, mediante prácticas no contempladas en la ley o no derivadas de una medida lícita" (párr. 1). En virtud del párrafo 2 del artículo 1, la complicidad por omisión de una persona que "tenga la responsabilidad de evitar o investigar" esos actos deberá ser sancionada con uno a cuatro años de prisión. El párrafo 3 dice que "si el delito resulta en lesiones corporales graves o sumamente graves, la pena será de 4 a 10 años de prisión; si causa la muerte,... de 8 a 16 años de prisión". Por último, en virtud del artículo 2 la ley es aplicable al delito de tortura no cometido en territorio brasileño, siempre que la víctima sea un súbdito brasileño o el agresor esté en una zona bajo la jurisdicción del Brasil (jurisdicción universal).

153. Antes de promulgar la Ley contra la tortura, los casos de tortura se habían clasificado exclusivamente como abuso de autoridad (abuso de autoridade) o, entre otras cosas, agresión/lesiones corporales (lesoes corporais) con arreglo al artículo 129 del Código Penal, homicidio (si causaba la muerte) en virtud del artículo 121 del Código Penal, amenazas (ameaças) con arreglo al artículo 147 del Código Penal o coacción ilícita (constrangimentos ilegais) en virtud del artículo 146 del Código Penal. Según la información recibida en particular del ministerio público, las penas impuestas antes de la entrada en vigor de la Ley contra la tortura variaban de diez días a tres meses. El número de funcionarios públicos que fueron absueltos o destituidos siempre fue considerablemente superior al número de condenados, y alrededor del 50% de los condenados lo fueron por abuso de autoridad o lesiones corporales.

⁷⁰ El resto del párrafo 4 dice así: "b) contra niños, mujeres embarazadas, inválidos o adolescentes; c) con motivo de un secuestro".

⁷¹ *Ibidem*.

Cuando se producía una condena, los agentes del orden apelaban y rara vez eran sancionados en realidad, a causa de la prescripción de la responsabilidad jurídica. Según abogados de derechos humanos y organizaciones no gubernamentales, antes de la Ley contra la tortura, la prescripción también menoscababa los esfuerzos para procesar casos de tortura. Si se condena a alguien después de la prescripción, el juez no puede imponer pena de prisión. También se ha comunicado que por ello jueces corruptos se han visto alentados a demorar a propósito algunos casos, de modo que podrían ser destituidos⁷². Para evitar el derroche de recursos judiciales, el fiscal solía desestimar los casos de lesiones corporales con la certeza de que, aun cuando consiguiera procesar a los autores, el delito probablemente habría prescrito antes de dictar sentencia, suprimiendo así la posibilidad de una pena de prisión.

154. Según varios funcionarios, entre ellos miembros de la Comisión de Derechos Humanos de la Cámara de Diputados, fiscales y el corregedor de la policía del Estado de Minas Gerais, y organizaciones no gubernamentales, los jueces todavía suelen calificar los casos de tortura como "lesiones corporales" o "abuso de autoridad". También se afirmó que los jueces utilizan más comúnmente el "abuso de autoridad" y las "lesiones corporales" porque su definición es más estricta que la de la tortura. Según fiscales que habían tramitado casos de tortura, tras haber escuchado el testimonio tanto de la presunta víctima como de los agentes del orden, los jueces a menudo procedían in dubio pro reo y aceptaban las declaraciones de éstos de que "no habían golpeado al detenido o la detenida, sino que únicamente los habían abofeteado". Entonces, se declaraban culpables de un cargo más leve. Según las organizaciones no gubernamentales, muchos jueces consideran demasiado severa la pena aplicable al delito de tortura.

Por consiguiente, los fiscales en casos de derechos humanos en Minas Gerais comunicaron, por ejemplo, que en el Estado sólo habían ocurrido dos casos de procesamiento en virtud de la Ley contra la tortura. Hay que insistir en que en el Brasil nadie ha sido condenado de torturas en virtud de dicha ley. Su casi total desconocimiento fue el tema de una importante conferencia celebrada en septiembre de 2000 en el Tribunal de Apelación en Brasilia, con el respaldo de la Secretaría de Estado de Derechos Humanos y el Foro Nacional de Defensores Adscritos a la Policía. Se supone que el Foro Nacional recomendó, entre otras cosas, que el Gobierno federal sujetara la entrega de fondos a los departamentos de la policía nacional a ciertas condiciones, como la creación de mecanismos para asegurarse de que los agentes sometidos a procesamiento administrativo sean suspendidos y la creación de corregedorías autónomas e independientes.

155. Se ha culpado a todo el sistema judicial de su ineficiencia, en particular la lentitud, la falta de independencia, la corrupción y los problemas relativos a la falta de recursos y de personal capacitado, así como la difundida práctica de la impunidad de los poderosos. Los magistrados y los abogados habrían sido objeto de amenazas e intimidación. A pesar de sus facultades en virtud de la ley, se afirma que los jueces suelen estar bajo presión para no proceder ex officio en relación con las condiciones de detención, por ejemplo. El juez de un tribunal penal en Brasilia que había comenzado a cerrar comisarías de policía habría sido reemplazado. En marzo de 1999, se designó una comisión parlamentaria de investigación para examinar las deficiencias en la judicatura.

156. Por último, el Relator Especial señala que con respecto a los delitos penales cometidos por agentes de la policía militar, el Código de Procedimiento Penal Militar (Decreto-ley N° 1002/69,

⁷² US Department of State, 1999 Human Rights Report (20 de enero de 2000) - Brasil.

de 21 de octubre de 1969) dispone que deben ser juzgados por el fuero militar⁷³. En virtud de la Ley N° 9299/96, los casos de homicidio premeditado (homicidio doloso) contra civiles se han remitido a tribunales ordinarios⁷⁴. No obstante, las indagaciones iniciales de la policía siguen estando a cargo de investigadores militares, al igual que la calificación de un delito como "homicidio premeditado" u "homicidio involuntario". Los delitos de lesiones corporales, tortura y homicidio involuntario cometidos por agentes de la policía militar no dejan de ser de la exclusiva competencia de los tribunales militares, que están compuestos de cuatro oficiales militares y un juez civil. El Código Penal Militar no contempla el delito de abuso de autoridad y, por ende, los casos de esta naturaleza contra agentes de la policía militar pueden ser sometidos a tribunales ordinarios. El procesamiento en los tribunales militares duraría muchos años pues se afirma que la justicia militar tiene demasiados casos pendientes y es ineficiente. Además, las organizaciones no gubernamentales señalan que los agentes de la policía militar no quieren investigar a sus propios colegas. Según la información recibida, como parte de un intento de llegar a un arreglo amistoso ante la Comisión Interamericana de Derechos Humanos en los casos de Roselândio Borges Serrano y Edson Damião Calixto, el Gobierno federal ha sometido al Congreso un anteproyecto de ley que aumenta el número de delitos cometidos por agentes de la policía militar que deben ser juzgados en tribunales civiles e incluye entre ellos el homicidio involuntario, las lesiones corporales y otros delitos no contemplados en el Código Penal pero sí en una legislación separada como la tortura⁷⁵.

⁷³ El párrafo 1 del artículo 9 del Código Penal Militar (Decreto-ley N° 1001/69, de 21 de octubre de 1969) dispone que los delitos militares son delitos comprendidos en el Código Penal Militar "cuando están definidos de otro modo en el derecho penal civil, o los que están dispuestos en éste, sin tener en cuenta quién los ha cometido, salvo disposiciones especiales" y, en virtud del párrafo 2, los delitos expuestos en el Código "a pesar de que puedan estar definidos del mismo modo en el derecho penal civil, cuando son cometidos... b) por personal militar en servicio activo o en una categoría parecida en un lugar sometido a la administración militar, contra personal militar perteneciente a la reserva, soldados retirados o alguien parecido, o contra civiles; c) por personal militar en servicio activo, en misión de carácter militar o en formación, aunque sea fuera del lugar bajo administración militar, o contra personal militar perteneciente a la reserva, retirado o en condiciones parecidas, o contra civiles".

⁷⁴ El artículo 1 modifica el artículo 9 del Código Penal Militar añadiendo un párrafo que dispone que "los delitos contemplados en el presente artículo, cuando se cometan con premeditación contra la vida de un civil, serán competencia de la justicia ordinaria". También modifica y complementa el artículo 82 del Código de Procedimiento Penal Militar al disponer en el párrafo 2 que "en los delitos con premeditación cometidos contra la vida de civiles, la justicia militar remitirá a los tribunales ordinarios el sumario instruido por la policía militar".

⁷⁵ En febrero de 2001, el Estado de Pernambuco informó al Secretario de Derechos Humanos de que introduciría un proyecto de ley a la Asamblea Legislativa para pagar indemnización civil por un valor de 15.000 reais a Edson Damião Calixto y a dos herederos y sucesores de Roselândio Borges Serrano por los daños causados por funcionarios públicos.

III. CONCLUSIONES Y RECOMENDACIONES

157. El Brasil es un enorme y complejo país sudamericano. Tiene 8.531.500 km² y una población de 160 millones de habitantes. La mayoría de los asentamientos se encuentran en la parte oriental del país, adyacente o próxima al océano Atlántico. El interior está más escasamente poblado. La población es una mezcla de portugueses y otros inmigrantes europeos, negros (sobre todo descendientes de los esclavos de la época colonial), mulatos e indígenas.

158. Es la décima economía más importante del mundo, con un 17,4% de la población por debajo de la línea de la pobreza. Es un Estado federativo en que los diversos Estados gozan de importantes facultades. Si bien la legislación penal es de carácter federal, la administración de la justicia en los delitos cometidos en los Estados depende totalmente de la autoridad de éstos, que están encargados de la organización y la asignación de recursos al poder judicial, el ministerio público, la policía y así sucesivamente. Por otro lado, los fuertes centros de poder político en los distintos Estados pueden menoscabar gravemente la influencia del Gobierno federal, en especial por lo que respecta a la composición del Congreso, que también está sujeto a presiones del aparato de aplicación de la ley, al que han pertenecido notables senadores y diputados. Sigue amenazando el actual Gobierno democrático el período de Gobierno militar de 1964 a 1985 que estuvo caracterizado por torturas, desapariciones forzadas y ejecuciones extrajudiciales. Existe la libertad de asociación política y de expresión, que comprende una prensa dinámica y una sociedad civil cada vez más activa. Ahora bien, a pesar de la existencia de la Ley N° 9140 de 1995 que concedió reparación a las familias de algunas víctimas del régimen militar, no se ha asumido plenamente la responsabilidad oficial de los delitos cometidos por ese régimen.

159. Como el Relator Especial ha descubierto en varios países, hay una inquietud pública general con respecto al grado de delincuencia común, que engendra un sentimiento general de inseguridad pública que a su vez hace exigir una reacción oficial draconiana, a veces sin límites legales. Algunas figuras y partidos políticos se han dedicado a explotar ese temor en las elecciones.

160. No obstante, el Relator Especial tiene la impresión de que las personas que ocupan el poder federativo, así como el poder en los Estados que visitó, querían plantear los principios relativos al imperio de la ley y a los derechos humanos. Algunos, a menudo demostrando la valentía de su dirigencia política, estaban claramente empeñados en mejorar el corrupto y violento aparato de aplicación de la ley que habían heredado de gobiernos anteriores (véase el párrafo 61). Otros parecían estar menos dispuestos a convertir sus palabras en acciones (véase el párrafo 52).

161. La legislación brasileña tiene muchos aspectos positivos. La Ley contra la tortura de 1997 ha tipificado la tortura como un delito grave, aunque en términos que limitan la noción de tortura mental en comparación con la definición contenida en el artículo 1 de la Convención contra la Tortura y Otros Tratos o Penas Cruelles, Inhumanos o Degradantes de 1984. Después de 24 horas de detención en una comisaría de policía, es decir, una vez dictado un mandamiento judicial de detención temporal o provisional, la persona debe ser trasladada a un centro de detención provisional (anterior al enjuiciamiento). Quien no tenga defensor deberá poder disponer de asistencia letrada gratuita. Las declaraciones obtenidas mediante torturas deberán ser inadmisibles contra las víctimas. El servicio de medicina forense debe ser capaz de detectar los muchos casos de tortura. Las distintas categorías de personas deben estar separadas unas de otras (por ejemplo, los reclusos procesados de los condenados). Las condiciones de detención y

el trato de los detenidos deben ser propios de un ser humano y, en el caso de los menores, por lo menos enseñarles algo. El problema es que a menudo se pasan por alto estos aspectos pues un órgano judicial indiferente defiende el incumplimiento estatal de la normativa por diversos motivos, ya sea la falta de recursos para cumplir las obligaciones o la imposición de exigencias imposibles a los demandantes para que prueben sus denuncias. Casi se desconocen las disposiciones de la Ley contra la tortura, y los fiscales y magistrados prefieren las nociones tradicionales inadecuadas de abuso de autoridad y lesiones corporales. El servicio de medicina medicolegal, bajo la autoridad de la policía, no goza de independencia para inspirar confianza en sus resultados.

162. La asistencia letrada gratuita, en especial en la etapa de privación inicial de libertad, es ilusoria para la mayor parte del 85% de quienes están en esas condiciones y la necesitan. Ello se debe al limitado número de defensores públicos. Además, en muchos Estados (São Paulo es una notable excepción) los defensores públicos están tan mal remunerados en comparación con los fiscales que carecen de motivación, empeño e influencia, así como de formación y experiencia. En estas condiciones de vulnerabilidad, los sospechosos están a merced de la policía, el ministerio público y los magistrados, muchos de los cuales están más que felices de dejar que se formulen y fundamenten cargos en virtud de una legislación que permite pocas posibilidades de impedir una prolongada detención de autores de delitos leves, muchos de los cuales han sido obligados a confesar que han cometido delitos más graves de los que efectivamente pueden haber cometido, si han cometido delito alguno.

163. Del mismo modo, hay una amplia gama de iniciativas positivas e instituciones destinadas a asegurar el cumplimiento de la ley por parte de la policía y proteger a las personas en manos de las autoridades. Entre esas medidas figuran el acceso a las cárceles de capellanes católicos, consejos de la comunidad, consejos de derechos humanos de los Estados, defensores adscritos a la policía y las cárceles y departamentos de asuntos internos. Una vez más, el problema es que hay que depender de un trabajo fundamentalmente voluntario en los tres primeros casos (en muchos lugares, los consejos de la comunidad y los consejos de derechos humanos de los Estados o no existen o no funcionan) o están desprovistos de recursos (como en algunas ouvidorias) y a veces de la auténtica independencia necesaria para funcionar con eficacia (como en algunas corregedorias).

164. La mayor parte de las actividades externas de supervisión dependen demasiado de la buena voluntad y la cooperación de los jefes de comisarías de policía (delegados) con respecto a las funciones de indagación merced a las exorbitantes facultades que tienen. Asimismo, el dividido sistema policial hace muy difícil vigilar la supervisión externa de la policía militar, el órgano más frecuentemente responsable de las detenciones en flagrante delito.

165. La formación y la profesionalidad de la policía y otros funcionarios encargados de los detenidos suelen ser inadecuadas, a veces hasta el punto de que sencillamente no existen. Es general la cultura de la brutalidad y a menudo de la corrupción. Los escasos sospechosos adinerados, si llegan a estar privados de libertad o hasta a ser condenados, pueden costearse un trato y condiciones de detención tolerables o por lo menos menos intolerables que las muchas personas pobres, normalmente negros o mulatos y, en las zonas rurales, indígenas.

166. Se hicieron relativamente pocas denuncias en el plano federal o con respecto al Distrito Federal. Se cometen torturas y malos tratos análogos en forma general y sistemática⁷⁶ en la mayor parte del país que visitó el Relator Especial y, hasta donde sugiere el testimonio indirecto de fuentes seguras al Relator Especial, en la mayor parte del resto del país. Ocurren en todas las fases de la detención: arresto, detención preliminar, otras formas de detención provisional y en los centros penitenciarios e instituciones para menores delincuentes. No ocurren a todos ni en todas partes, sino principalmente a los delincuentes comunes pobres de raza negra, implicados en delitos leves o en la venta de drogas en pequeña escala. Y ocurren en las comisarías de policía y las instituciones penales por las que pasa este tipo de delincuentes. Sus propósitos van desde obtener información y confesiones hasta engrasar los sistemas de extorsión de dinero. La conformidad de las versiones recibidas, el hecho de que la mayoría de los detenidos aún tenían marcas visibles que concordaban con sus declaraciones y que el Relator Especial pudo descubrir en casi todas las comisarías instrumentos de tortura como aquellos descritos por las presuntas víctimas, por ejemplo barras de hierro y garrotes, hacen difícil refutar las numerosas denuncias de tortura puestas en su conocimiento. Dos veces (véanse los párrafos 35, São Paulo, y 84, Pará, del presente documento), gracias a las informaciones dadas por los propios detenidos, el Relator Especial pudo descubrir largos palos de madera en que los agentes del orden habían tallado comentarios lacónicos que no dejaban lugar a dudas del uso a que estaban destinados.

167. Además, las condiciones de detención en muchos lugares son, como lo advierten las propias autoridades sin rebozo, inhumanas. El Relator Especial a menudo encontró que las peores condiciones existían en las celdas de la policía, en donde las personas permanecían más allá del período de 24 horas que dispone la ley. El Relator Especial se siente obligado a señalar la intolerable impresión que le causaron muchos de los lugares de detención, en especial los calabozos que visitó. No atenuó el problema que las autoridades a menudo conocieran y le advirtieran las condiciones que iba a encontrar. No podía menos que comprender la declaración común que oyó de las personas apiñadas allí de que "nos tratan como animales y esperan que actuemos como seres humanos al salir de aquí".

168. El Brasil es una sociedad abierta con una prensa enérgica. Estas conclusiones no causarán sorpresa a muchos en el país que tienen interés en conocer la verdad. Las recomendaciones que figuran a continuación son principalmente una recopilación de las mejores prácticas que existen en el país, aunque de forma demasiado esporádica y aislada. En efecto, algunas no exigirían más que las autoridades obedecieran las leyes brasileñas en vigor.

⁷⁶ Por lo que respecta al término "sistemático", el Relator Especial se orienta por la definición utilizada por el Comité contra la Tortura: "El Comité considera que sí hay práctica sistemática de la tortura cuando parece que los casos de tortura notificados no son fortuitos y se han producido en un solo lugar o en un momento concreto, y se observan en ellos elementos de hábito, generalidad y finalidad determinada por lo menos en una parte importante del territorio del país. Además, la tortura puede revestir un carácter sistemático sin que eso se deba a la intención directa de un gobierno. Puede ser consecuencia de factores que al gobierno le puede resultar difícil controlar y su existencia puede indicar un desfase entre la política concreta del gobierno central y su aplicación por la administración local. Una legislación insuficiente que en la práctica permite la posibilidad de recurrir a la tortura también puede contribuir al carácter sistemático de esta práctica" (A/48/44/Add.1, párr. 39).

169. A la luz de lo que antecede, el Relator Especial ha formulado las siguientes recomendaciones:

- a) En primer lugar, los principales dirigentes políticos, federales y estatales deben declarar sin ambages que no tolerarán torturas ni otros malos tratos por funcionarios públicos, en particular la policía militar y civil, funcionarios penitenciarios y funcionarios de instituciones para menores. Deben tomar medidas enérgicas para que esas declaraciones sean verosímiles y dejar claro que debe terminar la cultura de la impunidad. Además de poner en efecto las recomendaciones siguientes, esas medidas deberían incluir visitas sin aviso previo a las comisarías de policía, los centros de detención anterior al enjuiciamiento y las cárceles conocidas por el predominio de esos tratos. En particular, deberían pedir cuentas directas de los desmanes a quien esté encargado de los lugares de detención en el momento en que se cometan. Esa responsabilidad debería incluir, pero no limitarse a la práctica que existe en algunas localidades, de que la existencia de abusos bajo su dirección tendrá consecuencias adversas para sus posibilidades de ascenso y efectivamente debería suponer la separación del cargo, que no debería consistir meramente en el traslado a otra institución.
- b) El abuso de la facultad de la policía de arrestar sin una orden judicial en casos de flagrante delito a cualquier sospechoso debe terminar inmediatamente.
- c) Quien sea detenido en flagrante delito legítimamente no debería ser retenido en comisarías de policía después de las 24 horas necesarias para obtener un mandamiento judicial de detención temporal. El hacinamiento en los centros de detención preventiva no puede justificar que los detenidos permanezcan en manos de la policía (donde, de todas formas, las condiciones de hacinamiento parecen superar sustancialmente las que existen hasta en algunas de las cárceles más hacinadas).
- d) Habría que notificar de inmediato a familiares cercanos de la detención de sus parientes y deberían poder visitarlos. Habría que tomar medidas para asegurarse de que los visitantes de los calabozos de la policía, los centros de detención provisional y las cárceles sean sometidos a registros sin olvidar su dignidad.
- e) Toda persona detenida deberá ser informada de su derecho permanente a consultar confidencialmente a un abogado en todo momento y a recibir asesoramiento jurídico gratuito independiente cuando no pueda pagar los honorarios de un abogado particular. Ningún agente de policía en ningún momento disuadirá a una persona detenida de pedir asesoramiento jurídico. En todos los lugares de detención debería estar a la vista de los detenidos y del público en general una declaración de los derechos del recluso como la Ley de cumplimiento de sentencias.
- f) Habría que llevar un registro separado de la detención de toda persona arrestada, en que se consignen la hora y los motivos del arresto, la identidad de los agentes que la detuvieron, la hora y los motivos de los traslados posteriores, en particular a un tribunal o a un instituto de medicina legal, y el momento de su liberación o traslado a un centro de detención provisional. El registro o una copia de éste debería entregarse

a la persona detenida que sea trasladada a otra comisaría de policía o a un centro de detención provisional.

- g) El mandamiento judicial de detención provisional jamás deberá cumplirse en una comisaría de policía.
- h) Ninguna declaración o confesión hecha por una persona privada de libertad, que no se haga en presencia de un magistrado o un abogado, debería tener valor probatorio en los tribunales, salvo como prueba contra los acusados de haber obtenido la confesión por medios ilícitos. Se invita al Gobierno a tomar en consideración urgentemente la posibilidad de filmar o grabar las actuaciones en las salas de interrogatorio de la policía.
- i) Cuando un procesado formule denuncias de tortura u otros malos tratos durante el proceso, deberá recaer en la acusación la responsabilidad de probar más allá de toda duda razonable que la confesión no se obtuvo por medios ilícitos, comprensivos de tortura u otros malos tratos.
- j) Las denuncias de malos tratos, hechas a la policía o a otros servicios o al departamento de asuntos internos del servicio (corregedor) o al defensor adscrito a la policía (ouvidor) o a un fiscal, deberán ser investigadas expedita y diligentemente. En particular, los resultados no deberán depender únicamente de las pruebas aportadas en el caso concreto; habría que investigar asimismo los cuadros de abusos. A menos que la denuncia sea manifiestamente infundada, las personas involucradas deberían ser suspendidas de sus funciones hasta que termine la investigación y cualquier otro procedimiento legal o disciplinario subsiguiente. Cuando se demuestre una denuncia concreta o un cuadro de actos de tortura u otros malos tratos, los funcionarios involucrados, entre ellos los encargados de la institución, deberán ser exonerados perentoriamente. Ello supondrá hacer una purga radical en algunos servicios. Se podría comenzar con los torturadores conocidos de la época del Gobierno militar.
- k) Todos los Estados deberían llevar a efecto programas de protección de testigos del estilo del programa PROVITA para testigos de actos de violencia cometidos por funcionarios públicos, que deberían abarcar hasta a personas con antecedentes penales. En los casos en que estén en peligro personas detenidas, deberían ser trasladadas a otros centros de detención en que se adopten medidas especiales para garantizar su seguridad.
- l) El ministerio público debería formular acusaciones en virtud de la Ley contra la tortura de 1997 con la frecuencia que requieran la extensión y la gravedad del problema y pedir que los magistrados hagan cumplir las disposiciones de la ley prohibiendo la salida bajo fianza de los acusados. El Fiscal General, con el apoyo fundamental de la gobernación del Estado u otras autoridades estatales pertinentes, debería asignar suficientes recursos humanos calificados y decididos para que hagan investigaciones penales de torturas y otros malos tratos y se encarguen de los procedimientos de apelación. En principio, los fiscales en cuestión no deberían ser los encargados del procesamiento de delincuentes comunes.

- m) La propia policía no debería estar encargada de la investigación de delitos cometidos por la policía, sino en principio un organismo independiente con sus propios recursos materiales y humanos de investigación. Como mínimo, el ministerio público debería tener autoridad para supervisar y dirigir la investigación. Esos funcionarios también deberían tener acceso ilimitado a las comisarías de policía.
- n) Habría que tomar en consideración favorablemente en los planos federal y estatal la propuesta de crear el cargo de juez investigador, que estaría encargado de salvaguardar los derechos de las personas privadas de libertad.
- o) Si por ningún otro motivo que para poner término al hacinamiento crónico en los lugares de detención (un problema que la construcción de más lugares de detención es poco probable que pueda resolver), es imprescindible un programa de sensibilización dentro del poder judicial para asegurar que esta profesión, que es fundamental para el imperio de la ley y la garantía de los derechos humanos, sea tan sensible a la necesidad de proteger los derechos de los sospechosos y de los reclusos condenados, como evidentemente lo es a la de reprimir la delincuencia. En particular, el poder judicial debería asumir cierta responsabilidad por las condiciones y el trato que recibe quien manda que permanezca en detención antes del proceso o condena a una pena de prisión. Cuando conozca de casos de delincuentes comunes, también debería estar reacio, cuando exista la posibilidad de formular una acusación diferente, a proceder con cargos que impiden la concesión de la libertad bajo fianza, excluir la posibilidad de sentencias alternativas, exigir la privación de libertad en régimen cerrado y limitar la imposición de condenas progresivas.
- p) Por la misma razón, habría que modificar la Ley de delitos repugnantes y otras disposiciones legislativas pertinentes para asegurarse de que no se puedan imponer largos períodos de detención o prisión frecuentes por delitos relativamente menores. Debería abolirse el delito de "desacato" (desacatar funcionario publico no ejercicio de sua function)⁷⁷.
- q) Debería haber suficientes defensores públicos para asegurar que toda persona privada de libertad tenga asesoramiento y protección jurídicos desde el momento de la detención.
- r) Habría que recurrir más a instituciones como los consejos de la comunidad, consejos de derechos humanos de los Estados y Defensores adscritos a la policía y las cárceles y proporcionarles los recursos necesarios. En particular, habría que establecer en cada Estado consejos de la comunidad dotados de todos los recursos necesarios, en que haya representantes de la sociedad civil, sobre todo organizaciones no gubernamentales interesadas en los derechos humanos, con acceso ilimitado a todos los lugares de detención y la facultad de reunir pruebas de infracciones oficiales.
- s) Habría que unificar a la policía bajo una autoridad civil y una justicia civil. Hasta entonces, el Congreso debería aprobar el proyecto de ley sometido por el Gobierno

⁷⁷ Artículo 331 del Código Penal.

federal para remitir a la jurisdicción judicial ordinaria los casos de homicidio involuntario, lesiones corporales y otros delitos como la tortura cometida por la policía militar.

- t) Habría que transformar las comisarías de policía (delegacias) en instituciones de servicio público. Habría que emular a las "comisarías limpias" (delegacias legais) que se han iniciado en el Estado de Rio de Janeiro.
- u) Debería haber un profesional de la medicina calificado (un doctor de elección propia, cuando sea posible) para examinar a cada persona al ingresar en el lugar de detención y al abandonarlo. El médico debería tener los medicamentos necesarios para atender a los reclusos y la autoridad para trasladarlos a un centro hospitalario independiente de la autoridad penitenciaria si no puede atenderlos. La posibilidad de atención médica no debería depender del personal de la autoridad penitenciaria. Los profesionales que trabajen en instituciones de privación de libertad no deberían depender de las autoridades de la institución ni de la autoridad política encargada de ésta.
- v) Los servicios de los médicos forenses deberían estar bajo autoridad judicial u otra autoridad independiente y no bajo la misma autoridad gubernamental que la policía; tampoco deberían tener un control exclusivo sobre las pruebas aportadas por peritos forenses a efectos judiciales.
- w) Hay que poner término de inmediato al espantoso hacinamiento en algunos centros de detención provisional y cárceles, si es preciso mediante medidas ejecutivas como, por ejemplo, la clemencia con respecto a ciertas categorías de reclusos como delincuentes que han cometido su primer delito sin violencia o sospechosos. Habría que cumplir la ley que dispone la separación de distintas categorías de reclusos.
- x) Tiene que haber una vigilancia permanente en cada una de esas instituciones y en los lugares de detención de menores, que sea independiente de la autoridad encargada de la institución. En muchos lugares esa vigilancia necesitaría una protección independiente.
- y) Hay que proporcionar urgentemente a la policía, personal penitenciario, fiscales y otros funcionarios encargados de la aplicación de la ley, capacitación básica y readiestramiento, que comprendan los derechos humanos y constitucionales, así como técnicas científicas y otras excelentes formas de desempeñar sus funciones profesionales. El programa de seguridad humana del Programa de las Naciones Unidas para el Desarrollo podría hacer una aportación sustancial en este sentido.
- z) Habría que aprobar el proyecto de enmienda constitucional que permitiría al Gobierno federal, en ciertas circunstancias, pedir autorización a un tribunal de apelación para asumir la jurisdicción sobre delitos que entrañen violación de los derechos humanos reconocidos internacionalmente. Las autoridades federales de acusación necesitarán considerablemente más recursos para poder cumplir su nueva responsabilidad con eficacia.

- aa) En la financiación federal de los establecimientos policiales y penales se debería tener en cuenta la existencia o no de estructuras que garanticen el respeto de los derechos de los reclusos. Se debería proporcionar financiación federal para poner en efecto las recomendaciones anteriores. En particular, la Ley de responsabilidad fiscal no debería ser un obstáculo para el cumplimiento de esas recomendaciones.
- bb) El Gobierno debería tomar en consideración seria y favorablemente la posibilidad de aceptar el derecho de hacer peticiones individuales al Comité contra la Tortura formulando la declaración prevista en el artículo 22 de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes.
- cc) Asimismo, se exhorta al Gobierno a considerar la posibilidad de invitar a visitar el país al Relator Especial sobre las ejecuciones extrajudiciales, sumarias y arbitrarias.
- dd) Se invita al Fondo de Contribuciones Voluntarias de las Naciones Unidas para las Víctimas de la Tortura a considerar favorablemente las peticiones de asistencia de las organizaciones no gubernamentales que defienden las necesidades de orden médico de personas que han sido torturadas y su desagravio conforme a la ley.

Annex

Individual cases*

State of Alagoas

1. **Anderson dos Santos**, a student, was allegedly beaten with a 12-calibre rifle by a military police officer in Maceió on 26 August 1999 because his dog had apparently entered the officer's house. He allegedly had bruises on his body and underwent an official medical examination. The Military Police General Commandant in Alagoas has reportedly been informed about the incident.
2. **Cícero Queiroz Barbosa** was allegedly arrested in his nephew's apartment by seven civil police officers and a police chief on 14 July 1999 in Maceió. It is believed that he was kept in a little truck where he was reportedly beaten with a towel, a piece of plastic, a rubber stick, a knife and ropes.
3. **Ronaldo Guedes da Silva**, aged 22, was allegedly arrested on 5 August 1999 in Maceió and taken by police officers to a bar where he had a debt of 16 reais. According to the information received, he was beaten by the police officers.
4. **José Alfredo da Silva** and **Cícero José da Silva** were allegedly arrested on 21 January 2000 and taken to the Novo Lino Police Station in Alagoas where they were reportedly beaten by police officers. The Military Police General Commandant in Alagoas and the Public Security Secretariat have apparently been informed about the incident.
5. **Hélio Pereira da Silva Júnior** was allegedly arrested on 8 April 1999 in Maceió and taken to the 5th district police station for allegedly having stolen a soft drink. He was reportedly kicked, given electro-shocks and showered with cold water by nine civil police officers. According to the information received, he died as a result of the beatings. An autopsy was reportedly carried out later. It is believed that there were several witnesses to the case. The Office of the Public Prosecutor has allegedly been informed about the incident.
6. **Cícero Rosendo da Silva**, a street vendor, was allegedly arrested by civil police officers in Maceió on 15 May 1998, allegedly for theft. According to the information received, he was beaten, subjected to the technique known as the "parrot's perch", held under water and subjected to Russian roulette. A judicial inquiry has reportedly been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

State of Amazonas

7. **Pedro Alves França** was allegedly arrested in Manaus on 9 June 1996 for allegedly having participated in an armed robbery. Police officers allegedly placed a plastic bag over his head, tried to suffocate him, kicked him and punched him on several occasions. It is reported

* For ease of reference, the individual cases have been arranged by State.

that the Forensic Medical Institute (IML) registered lesions consistent with his allegations. The office of the *corregedor* reportedly opened an inquiry in 1998. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

State of Bahia

8. **Mônica Ferreira da Silva** was allegedly beaten by the *delegado* and her son in front of the police station of Ibicuí on 31 January 1999. She was reportedly punched, kicked and slapped on her head and ears because she had allegedly verbally insulted the wife of the police chief. According to the information received, the beatings produced lesions on her cervical column and she could not move her right arm. The police chief reportedly nicknamed her “little neck” and he is reported to refer to her publicly in this manner. She was reported to have been taken to the Ibicuí hospital where she underwent an official medical examination on 12 February 1999. The incident was allegedly reported to the Secretariat for Public Security on 19 March 1999. According to the information received, the official medical examination report has disappeared from the regional police station of Itapetinga.

9. **M.S.**, aged 17, and **Israel da Silva Quirino** were allegedly arrested by military police officers from the 6th Battalion on 9 June 1999 in Salvador, on suspicion of using drugs. They were slapped in the face several times. The minor is reported to have admitted under pressure to having used drugs. It is said that he was taken to the 7th district police station where he was detained. He was allegedly released a few days later.

10. **José Carlos Machado, Carlos Alberto Araújo, Roberto Cruz Santos, Marcos Martins, Antônio Carlos Cafezeiro, Marcos Davi da Silva Dantas, Adevaldo Miranda de Souza, Ronaldo da Silva Santana, Reginaldo Ferreira dos Santos, Ademar Jesus dos Santos, Wilian Nunes dos Santos, Luiz Carlos Azevedo dos Santos, Nivaldo Silva de Jesus Filho, Givânio Vieira da Silva, Idalício Pereira da Paixão, Giovanni dos Santos Senna, Luzimar Silvestre Alves, Josué de Araújo, Vanderval Lima Viana, Aloísio Pereira de Brito, Valdício dos Santos and Fernando Rosendo da Silva**, all detainees at Lemos Britos Prison in Salvador, were reportedly beaten by military police officers on 19 January 2000, allegedly with the approval of the prison’s board of directors. It is reported that Catholic clergy visiting the jail observed marks and lesions on the prisoners’ bodies. Some of them are said to have undergone an official medical examination which allegedly registered lesions consistent with their allegations

11. **Walter de Jesus, Carpegiane de Oliveira and Delson Julio de Aragão Filho** were reportedly arrested by six military police officers on 29 September 1997 in Itamaraju. The police officers allegedly took them to an isolated area close to a river and tried to drown them several times in order to make them confess to the shooting of a police officer which had occurred nearby. They were then reportedly beaten by the police officers. A judicial inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

12. **José Carlos Vieira da Silva, José Roberto Vieira da Silva and U.S.N.**, a minor, were reportedly taken to a police unit in Salvador on 22 March 1997 for having allegedly stolen a television set from a police officer. They were allegedly punched, kicked, beaten with an iron

chain and a *palmatória* and hit with a gun butt by four military police officers and one civil police officer. They reportedly had their arms broken, their heads severely injured and large wounds on various other parts of their bodies. According to the information received, they were later transferred to a police station but, due to their physical state, they were not accepted and were taken to a hospital. It is reported that they underwent an official medical examination. No one has reportedly been punished or received any reprimand and the police officers allegedly involved in the incident are said to be still working in the same police station.

13. **W.M.S.**, aged 17, and **M.S.**, aged 14, were allegedly arrested in a restaurant in Alagoinhas on 2 May 1999 on suspicion of drug use. According to the information received, the police officers took 7,000 reais from them declaring that the money was allegedly a “product of narcotics trafficking”. They were reportedly beaten by the police officers, especially on their genitals. The minors were allegedly taken to a local police station and were reportedly not allowed to contact a lawyer. It is reported that they were released on the following day.

14. **Jaime Antonio dos Santos Souza**, a mentally disabled person, was allegedly beaten on his hands with a *palmatória* and with a broomstick by a military police officer in a police unit in Salvador on 16 May 2000. It is said that he was playing near the police unit and that this had bothered police officers. According to the information received, as a result of the incident he sustained bruises on his body and his hands were reportedly swollen for 10 days. It is reported that he was taken to Roberto Santos Hospital. The incident was allegedly reported to the Public Prosecutor Service on 17 May and he is believed to have undergone an official medical examination on the same day.

15. **Márcio Remígio Gomes**, a public employee, and **Edvaldo Costa Miranda**, a locksmith, were reportedly arrested on 23 September 1999 in Euclides da Cunha allegedly for having received stolen goods. They are believed to have been beaten by the police chief during their transfer to a police station in Salvador. According to the information received, the police chief took them to the Secretariat for Public Security where he presented them to the media. They were later reportedly taken to the São Caetano police station where it is believed that they were beaten again. On 28 September they were allegedly put in the boot of the police chief’s car in order to hide them from their relatives and lawyers. They were allegedly transferred to Juazeiro where, according to the information received, they were beaten, given electro-shocks on their testicles and tongue and plastic bags were placed over their heads. A judicial inquiry has reportedly been opened. They allegedly underwent an official medical examination which is said to have registered lesions consistent with their allegations. Some material allegedly used in the beatings was reportedly seized by the public prosecutors. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

16. **Roberto França**, aged 23, was allegedly detained at the 23rd district police station in Salvador on 9 April 1999. He was reportedly taken to Menandro de Farias hospital where he died. An autopsy is said to have been carried out and to have revealed that he had been subjected to torture.

17. **Arlindo Antonio Barros**, a detainee at Lemos Brito Prison in Salvador, reportedly suffered from a hernia in his genital area. According to the information received, he underwent three medical examinations which concluded that he needed surgery. It was reported that he had

his operation scheduled for 16 November 1997 at Manoel Vitorino Hospital. According to the information received, the police officers in charge of transporting him to the hospital did not want to wait ten minutes for the doctor's arrival and took him back to the prison. He is said to be still suffering from the same problem.

18. **José Carlos de Oliveira**, an 18-year-old farm worker, was reportedly arrested in February 1999 in Irecê allegedly accused of having stolen a motorcycle. According to the information received, he was taken to the local police station where he was reportedly subjected to the technique referred to as the "parrot's perch" and had his fingernails removed. He reportedly had a broom handle introduced into his anus and his buttocks burned with a melted plastic bag. He allegedly had his ribs and collarbone broken and bruises all over his body due to the beatings. Three days after his arrest he was reportedly taken to Irecê Regional Hospital and later transferred to Roberto Santos Hospital in Salvador, where it is believed he remained for one week.

State of Ceará

19. **Francisco Assis de Sousa Campos**, aged 18, and his father, **José Haroldo Fernandes Campos**, were reportedly approached by some police officers on 9 December 1999 inside a bus between Natal and Fortaleza. Francisco Assis de Sousa Campos is reported to have been considered suspicious because he was sleeping with his right arm connected to an intravenous serum tube to treat his chronic kidney disease. He was reportedly slapped in the face and beaten by a police officer for 20 minutes. He is said to have been taken to the back of the bus where a police officer searched him. José Haroldo Fernandes Campos is reported to have been beaten by another police officer, who reportedly punched him in his testicles. Both of them were allegedly forced to get out of the bus. Francisco Assis de Sousa Campos reportedly already had a wound on his left leg which broke open because of the beatings. It is believed that they were both threatened by the policemen with a shotgun aimed at José Haroldo Fernandes Campos. It is reported that a few days later they lodged a complaint with a public prosecutor and identified photos of one of the police officers. On 17 December 1999 both men reportedly underwent an official medical examination.

20. **Alexander Costa e Silva**, a trader, was reportedly beaten to death by policemen on duty at the local prison of Aracati on 27 January 2000. According to the information received, a medical report carried out just before his death confirmed the torture allegations.

21. **Marcos Studart** and **Valdir Gomes Soares**, a photographer and a driver for the newspaper *O Povo*, respectively, were reportedly attacked and beaten by the mayor of Hidrolândia and two of his employees on 22 February 2000 when they allegedly visited the municipality in order to investigate accusations of corruption. They are said to have had cuts, scratches and bruises all over their bodies and to have been sent for medical care. According to the information received, the case was made public in the media and referred to the State General Attorney.

22. **Francisco Antônio Moraes do Nascimento**, a shoe shiner, was reportedly beaten up, kicked and whipped by a military policeman in front of the local police station in the Polo de Lazer in Barra do Ceará on 1 January 2000. It is believed that he was beaten because he did not

have the necessary papers for carrying on his trade with him. An investigation is said to have been opened. The Special Rapporteur would be grateful to receive information about the outcome of the investigation.

23. **José Iran Alencar** was reportedly beaten up by policemen at the public prison of Potengi on 11 October 1999. He is said to have had wounds on the chest and on his head and to have undergone examinations at the Forensic Medical Institute. The case is said to have been reported to the authorities.

Federal District of Brasilia

24. **Juarez Fernando Leite** and **João Wellington Brandão** were allegedly arrested on 23 September 1996 in Tocantins State and taken to a police station in Brasilia where they were allegedly beaten. According to the information received, they underwent an official medical examination on the same day and lesions consistent with their allegations were said to have been registered. They were allegedly taken back to the police station where, according to the information received, they were again beaten by police officers. It is said they underwent a second official medical examination on 25 September 1996. The medical report allegedly registered burns sustained through electric shocks. A judicial inquiry was reportedly opened. The policemen were believed to have been discharged on the grounds that it was impossible to know if the lesions had been caused in Tocantins or in the Federal District. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

25. **Frederico Breda Leite**, a detainee at the 14th district police station in Brasilia, was allegedly beaten by two civil police officers on 29 November 1998. According to the information received, the police officers punched him, kicked him and subjected him to electric shocks in order to make him sign a confession to a vehicle theft. A judicial inquiry has reportedly been opened but allegedly not concluded. Public prosecutors are said to have lodged an official complaint against the policemen involved in the incident. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

State of Goiás

26. **Ascendino Caixeta da Silva** was allegedly arrested in December 1999 on suspicion of robbery and taken to the Valpariso police station in Goiás where, according to the information received, he was beaten by police officers. He is said to have been later transferred to the Luziânia police station where he was reportedly beaten again. It is believed that visitors had seen lesions on his body consistent with his allegations. He reportedly testified about the incident; however, his testimony is said to have disappeared from the files of the administrative procedure that had been opened. It is believed that the accusation had been filed by the police *corregedor*. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

27. **Jose Roberto Leite da Silva** was reportedly arrested by police officers, in civilian clothes but heavily armed, in Pendegal on 24 August 1999. It is believed that he had witnessed some shootings on the street. He was allegedly kicked in the stomach and threatened with death. A 9-year-old boy who witnessed the incident is said to have been arrested at the same time. The

boy's head was covered with a bag and both were taken to an unknown location. It is believed that they were taken to the military police headquarters, where it is reported that Jose Roberto Leite da Silva was tortured to death. He was reportedly taken outside and given electric shocks. Wires were said to have been applied to his handcuffs. It is believed that he died the following morning. The boy was eventually released the same morning. The father of the victim tried to report the incident for two months, but police departments reportedly refused to register his statement. The boy is said to have recognized some of the officers allegedly responsible for the death of Jose Roberto Leite da Costa. The body of the latter was found on 26 August in Lusiana (200 km from Pendegal) and was buried without a name and registered as a homeless person. It was later exhumed. An autopsy revealed three bullet wounds in the face, as well as 30 injuries on the body, which confirmed that he had been tortured. His genitals had been reportedly cut off. According to the information received, on 9 September 1999, the Human Rights Commission of the Chamber of Deputies recorded the statement of the boy and forwarded the file to the public prosecutor's office. The Governor is reported to have promised that the perpetrators would be brought to justice and that compensation will be paid to the victim's father. Nine police officers, including the officer commanding the company, are said to be awaiting trial on charges of murder, torture, abuse of authority and misuse of police equipment. The father of the victim and the young boy are reported to have received death threats. The Special Rapporteur would be grateful to receive information about the outcome of those trials and on the measures taken to protect the witnesses, in particular the young boy who was believed to be in an orphanage under the protection of the State of Goiás.

28. **Sandro Perreira**, from Padefe (Minas Gerais), was reportedly arrested by civil police officers at his father's house in Lago Azul on 24 May 1999. At 4 a.m., persons later known to be police officers reportedly knocked on his door and called out his wife's name. When he opened the door, they allegedly threw him on the ground and severely kicked him. No arrest warrant was reportedly presented to him. He was reportedly taken in a police car to the 6th district police station of Paranaua, in the Federal District of Brasilia. Sandro Perreira asked what the arrest was about, but was said not to have been given any reason. In the police station, he was allegedly placed in a cell. Two or three hours later, he was reportedly taken into a little room, where he was tied up and handcuffed. The officer allegedly beat him, in particular on his ears ("telephone torture"). At 5.30 p.m., he was brought back to the same room where there was said to have been a wet mattress on the ground. He was reportedly forced to kneel on the mattress and was beaten again on his face and ears. The officers allegedly took off his handcuffs and forced him to take off his clothes. They then reportedly took two big bandages and tied up his face down to his neck and bound his feet together. Then they are said to have hung him upside down over a bucket full of water. Five police officers reportedly questioned him about a person he did not know. On several occasions, the rope was loosened and his head hung in the water. When he overturned the bucket, a police officer reportedly said that they had more water. When Sandro Perreira stated that he did not know what the police wanted to know, the police allegedly started beating him on the back with a wooden stick. One police officer reportedly put him down on the wet mattress, placed implements on his thighs and covered his mouth. He was then allegedly given electric shocks and started shaking and bleeding from the mouth. The police officers reportedly increased the electric shocks and stated that since he was "big and strong", he "could take a lot". They threw water on his face. As a result of the bandages which were covering his nose and mouth, he could not breathe. In the early evening, he was taken back to the cell. The following day, between 5 and 6 p.m., which is believed to be the end of a shift,

he was reportedly taken back to the same room and subjected to “telephone torture” for some thirty minutes. He was reportedly forced to sit on a chair and four police officers were standing behind him, questioning and beating him. He is believed to have started to bleed from one ear. One of the police officers is said to have stepped on his chest, whilst the others were reportedly kicking and slapping him. The *delegada* is said to have ordered her colleagues to keep beating him until he spoke. Sandro Perreira is reported to have managed to give a note to another detainee leaving the police station in order to inform his family of his detention. On the following morning, his family, accompanied by a lawyer is said to have arrived at the police station while he was in the process of being transferred to the police station in Paranao. He was reportedly permitted to speak to his family on condition that he did not mention the torture he had been subjected to, in which case he would be killed. He was reportedly given a long-sleeved shirt and trousers and some cotton was put in the ear which was bleeding. He was reportedly told to say that he had water in his ear. According to the information received, three police officers were present in the room when he met with his family. His request to speak to them alone was reportedly turned down. He then met his lawyer in the presence of a police officer. After the departure of his family, he was reportedly taken to a police car in which he was allegedly beaten and asked “where the others lived”. He was then reportedly driven to a dirt road and at some point told to get out of the car and start running, still handcuffed, because of a supposed flat tyre. Thinking that he would be executed if he did so, he refused and told them that they would have to shoot him in the police car. He was then driven back to Parana police station, where he was reportedly beaten again. Relatives of another detainee reportedly saw him lying on the floor in the room. He was then allegedly locked into an individual cell for the next eight days. He was allegedly threatened with death. As a result of the torture, he was said to be suffering from an ear infection and puss was said to be discharging from his ear. The police officers are then believed to have realized that his ear was infected and he was taken to Sobradinho Hospital where he was treated by an ear and nose specialist, who stated that he had no more eardrums. He was reportedly examined in the presence of four police officers who are said to have responded to the questions of the medical doctor. One of the police officers reportedly stated that Sandro Perreira had water in his ear, however the latter indicated with his hands that “telephone torture” had occurred. The doctor reportedly refused to hand over the medical certificate to the police and to have kept it. The medical report is said to confirm the torture allegations. Around 5.30 p.m., Sandro Perreira was reportedly taken back to the same room in the police station and beaten again. He was then taken back to the individual cell where he tried to hang himself with his shirt. He was reportedly taken out of the cell by a police officer who tried to prevent him from committing suicide. He was taken to another cell where other detainees were held. The following day, he is said to have been allowed to see his family, but in the presence of a police officer. He was again reportedly instructed not to talk about the treatment he had been subjected to. However, when the police officer was called out of the room, Sandro Perreira reportedly managed to show his family his wounds and told them about the electric shocks. He is said to have told them to go to court to have the court find out what was happening to him. According to the information received, he was seen by a prosecutor and then transferred to the 2nd district police station, commonly known as Pisa Norte. He was allegedly stripped naked and told how he should explain the marks on his body to the forensic doctor he was going to see the following day. He is believed to have shown all the marks to the forensic doctor at the IML and to have told him about the torture he had allegedly been subjected to. The medical certificate issued at that time is reported to have mentioned “no observation of injuries”. He was then allegedly threatened with being sent to the “worst police station in

Brasília”, the 2nd district police station, and the *delegado* is said to have ordered him to be held incommunicado for the following 30 days, i.e. until his injuries healed. After several requests, and after suffering from a convulsion, he was reportedly taken to a public hospital, where he requested an x-ray of his whole body. A blood clot was reportedly discovered in his stomach. He requested the doctor to note down all the injuries he had suffered. One day later, he was taken back to the IML where two doctors examined him. This time, they reportedly had to describe all the injuries in detail and a medical report was issued. He was subsequently returned to the 2nd district police station. A couple of days later, he was reportedly heard by a judge and was asked to identify the responsible police officers, which he is said to have done. The police had allegedly threatened him and his family members with death, if he were to identify the officers responsible. According to the information received, he had been arrested on the basis of a witness’s testimony on charges of participating in a gang robbery. The judge had reportedly issued a warrant for five days’ arrest, prolonged by another five days (temporary detention), but he had allegedly been held in a police station for 76 days before seeing a judge for the first time. After the first ten days, the judge is reported to have issued an order for his preventive detention. Until that point, no hard evidence about his involvement in a gang or a robbery is said to have been found and no inquiry is said to have been carried out. A later inquiry is said to have discovered evidence of the existence of a gang but not of a specific robbery. The charge was reportedly therefore reduced to membership in a gang, which does not carry a penalty of imprisonment. After five months, he was allegedly found innocent. During the trial proceedings, it was reportedly proved that the witness statement implicating Sandro Ferreira had been extracted under torture. His medical records were reportedly shown to the judge responsible for his trial and the prosecuting attorney in order to have proceedings opened regarding the torture allegation. The prosecuting attorney is said not to have wanted to take up the case. It is not known whether any action has been taken with respect to his torture complaint. At the time of the interview, on 21 August 2000, marks consistent with his allegation, such as a scar on his ankles, were still visible.

State of Mato Grosso

29. **Aristeu da Silva**, a detainee at Pascoal Ramos Prison in Cuiabá, was allegedly killed on 1 February 2000. According to the information received, he was imprisoned in Block B and was murdered as a result of a fight with a rival faction located in Block A. **Nelson Rodrigues de Sá** was allegedly beaten on the same day by the other faction as well. The *delegado* and other police officers were reportedly informed that some detainees in the jail had guns. It is said that on the same day they had performed a search in the prison and found no weapons. The detainees had reportedly handed in a list to the board of directors indicating the prisoners who had been threatened with death by other prisoners. On 2 February 2000 the public prosecutor allegedly received a letter with 17 names of detainees who were believed to be at risk as a result of animosity between the different factions. On 3 February 2000 the event, later known as the “Pascoal Ramos slaughter”, took place in the jail. According to the information received, the guards noticed that something was about to happen and left. Prisoners from Blocks B and C reportedly attacked prisoners from Block A. The following detainees reportedly died as a result of the attack: **Laudomiro César de Oliveira, Joselino Costa Marques, Adailton Bondespacho de Arruda, Ademilson Costa Alves, Benedito Sales de Souza Filho, Marenildo Leandro Curvo, Antonio Iran de Lima, Ivan Aparecido Gomes Rodrigues, Robleik César Soares de Paulo, José Pereira dos Resi, Maurelino Márcio Rondon,**

Edvaldo de Jesus and Rober Montes Magalhães. The following detainees were allegedly seriously injured: **Sérgio Domingos Dias, Márcio Márcio de Souza, Arlindo Martins da Silva, Domingos Passos Primo, Antonio de Oliveira Filho, Ariovlado Matos de Menezes, Fábio Gonçalves Barros, Wabderison dos Santos, Joldimar Ferraz Garcia, Francisco Vicente de Brito, Paulo César Mota, Sebastião Marques Sampaio and Jair da Silva.** The director of the prison is believed to have forbidden military police officers to intervene to stop the attack which is said to have lasted from 9.40 a.m. to 3.00 p.m. The official version is reported to be that the prisoners were “settling accounts with each other”. The military police and the Independent Command Special Operation Group reportedly surrounded the prison during the fight. It is believed that their only function was to apprehend potential runaways. According to the information received, the officers shot into the air to threaten those who came near the prison fence and **Genildo Cosme Tibúrcio Leite and Miguel Cabrera Toledo** were allegedly shot by police officers. It was reportedly later claimed that they had tried to escape. Prisoners apparently had guns, knives and spears. A judicial inquiry has reportedly been opened. It is alleged that the public prosecutor’s report published on 23 February 2000 concluded that the state should be charged with responsibility for the detainees’ deaths for having failed to prevent the incident. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

State of Mato Grosso do Sul

30. **Gilberto Cardoso, João Felipe de Almeida, Nilton Gonzaga de Araújo, Denilson Rodrigues da Costa and Pedro Wilson do Nascimento,** truck drivers, were reportedly arrested by civil and highway police officers at Bataguassu in 1999 for having allegedly stolen fuel. They were reportedly taken to a police station. Pedro Wilson do Nascimento was reportedly taken to a separate room where he is said to have been beaten and threatened with death with a knife by a highway patrolman. He was allegedly hung in a water tank where he reportedly remained for hours. According to the information received, he was taken to the same room the next morning and threatened in order to make him sign a confession. It is said that the other truck drivers were frightened and signed confessions. The incident was reportedly registered at the Dracena Police Station. An official medical examination was reportedly performed and confirmed the allegations. The lawyers who followed the case are said to have received death threats. The police officers allegedly involved are reported to be still on duty.

State of Minas Gerais

31. **Luciene Frinhani dos Santos** was reportedly arrested on 6 April 2000 and was seriously beaten at the time of arrest. She was reported to have been taken by two civil police officers to the 2nd district police station of Belo Horizonte where she is believed to have signed a confession under threat of further beatings. At the police station, she was reportedly stripped naked. She was then reported to have been transferred to the women’s lock-up of the Department of Investigation on the third day. The following day, she is said to have been taken to the theft and robbery police station where she was beaten on the head and subjected to electro-shocks. Her head is reported to have been put in a bucket full of water. According to the information received, upon request from the *delegado*, she was later taken to the Forensic Medical Institute (IML) by the officers who had beaten her at the 2nd district police station. They are believed to have threatened her during the trip to the IML. She did not complain about

the ill-treatment. It is reported that the IML doctor ordered her kept for two days in an emergency room, still under the surveillance of the police officers from the 2nd district police station. She allegedly complained to the judge about the ill-treatment she is said to have been subjected to.

32. **Solange Rinca da Cruz** was reportedly arrested at home, with no arrest warrant, on suspicion of extortion on 25 July 1999 by civil police officers who are said to have taken her directly to the women's lock-up of the Department of Investigation of Belo Horizonte. It is believed that she was interrogated by the *delegado* in the presence of her lawyer. After a month of detention, she is said to have been authorized to work outside. According to the information received, she was paying 50 reais each time she wanted to see her husband who was held in the same police station. The fourth time, she is believed to have been taken at 1.00 a.m. by a police officer with a gun to a different room, where she was allegedly raped. One week later, she complained to the Head of the Department of Investigation who is said to have ordered an IML examination. It is believed that the IML could not prove the rape. An internal inquiry was said to have been opened against the alleged perpetrator who was temporarily dismissed pending investigation. In October 1999, she is reported to have been asked by the *corregedor* to testify. According to the information received, she was threatened by the officer who allegedly raped her and by other police officers. The results of the internal inquiry were not known at the time of the visit of the Special Rapporteur (4 September). The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

33. **Paulo Eustáquio Holanda Martins** was reportedly arrested on 3 June 2000 on suspicion of armed robbery and taken to the Department of Investigation of Belo Horizonte before being taken on 16 June to the theft and robbery police station where he was allegedly beaten with rubber truncheons on the soles of his feet and the palm of his hands in order to make him sign a confession to murder. He is believed to have fainted three times. He was asked to pay money in order not to have to sign the confession.

34. **Vitoriano Valdivino Dias** was reportedly arrested on 12 August 2000 by three military police officers on suspicion of theft. He was reportedly handcuffed before being punched on the face and severely beaten and kicked, in particular on the ribs. This is believed to have happened on the street and then in a military police vehicle in which he was allegedly also beaten with wooden sticks. As a result, he is said to have lost most of his teeth. At the time of the interview (3 September), most of his teeth were indeed missing. He is reported to have threatened the police officers that he would complain to human rights organizations about the treatment they were subjecting him to. The police officers are then said to have threatened to kill him. He was reportedly taken to the Department of Investigation of Belo Horizonte where he was kept for 24 hours where he signed a confession under threat of further beatings. On 14 August, he was reportedly taken to the theft and robbery police station where he was allegedly threatened with further beatings when he asked for medical treatment.

35. **Wellinton Marcolino** was reportedly taken to Nelson Hungria Prison in the first trimester of 1998. Upon arrival, it is alleged that he was beaten with sticks by masked prison guards, in particular on his legs. At the time of the interview (3 September), he was still suffering from a bulb-shaped mark on his right foot consistent with his allegations. It is reported that a doctor requested x-rays to be taken of his leg but Wellinton Marcolino was never taken to a specific

hospital. It is believed that he was asked by a major to denounce the guards, but that he could not identify any of them as they were wearing masks.

36. **Rogério Correia da Silva**, a detainee at Nelson Hungria Prison, was reportedly denied progression to a more open prison regime because of his complaints about the ill-treatment of another detainee which he had witnessed on 26 April 2000 during a mass celebrated by the Prison Ministry in the prison. According to the information received, he had seen an inmate being taken handcuffed out of his cell and severely beaten. He is then said to have threatened to denounce the guards to the Prison Ministry, as a result of which they reportedly stopped the beating. Since then, he was reportedly denied progression to which he is said to be entitled as he had already served more than two third of his sentence. A fortnight after his denunciation, he was allegedly beaten by a guard in Block Four, to which he had been transferred as a punishment. He was then taken to Block Three where he was allegedly punched on the back of the neck. It is reported that he spent 15 days in that block before being taken back to Block Four. He is said to have been taken to an IML where he was not, however, examined by a doctor. He complained about headaches but allegedly did not receive any medication.

37. **Wagner Barbosa Lima** was reportedly arrested on 23 December 1999 and beaten by three military police officers for 30 minutes. He was then taken to the DETRAN of Belo Horizonte where, according to the information received, he signed a confession under pressure from the military police officers who were present in the room. As he did not bear any marks, he did not complain to the judge when he appeared in court because he thought that the judge would not believe him.

38. **Francisco Floriano do Paulo** was reportedly arrested mid-July 2000 after having escaped from a police station. He was said to have been taken to the Departamento de Trânsito (DETRAN) of Belo Horizonte where on the third day of his detention, he was allegedly beaten with wooden sticks in the corridor leading to the cells and in an investigation room by four police officers. According to the information received, he was then punched on the head and was threatened with being beaten every day for one week if he did not sign a confession. He eventually signed some papers. It is believed that he was asked for money in order to stop the beatings.

39. **Leandro Correia Leal** was reportedly arrested in November 1999 on suspicion of drug trafficking. At the theft and robbery police station of Belo Horizonte, he was allegedly stripped naked and beaten. According to the information received, a hose was placed in his mouth and hot water was poured into his mouth. This is believed to have lasted for 20 minutes during which he vomited before he eventually fainted. Needles are said to have been inserted under his fingernails. He nevertheless reportedly refused to sign a confession.

40. **Eduardo Silva Gomes** was reportedly arrested on 4 November 1998 for homicide and sentenced on 23 May 1999 to 12 years' imprisonment. On 23 April 1999, he was transferred to Nelson Hungria prison. On 23 April 2000, while he was working as a cleaner in Block Ten, he reportedly heard a guard asking a detainee for a bribe in order to allow his wife to enter his cell. The detainee is said to have refused to pay and to have set his mattress on fire. When Eduardo Silva Gomes reported the incident, he was reportedly taken to the Criminological Observation Centre (COC) block in the prison where he was allegedly severely beaten and

kicked with rubber truncheons and wooden sticks by guards, in particular on the head, the genitals and the back. Water was then reported to have been poured on him before he was left naked in a cell. On every duty shift for five days, he is alleged to have been beaten. On 28 April, the Prison Ministry and public prosecutors are said to have visited him and to have seen marks on his body consistent with his allegations. Pictures are believed to have been taken. Thirty days later, it is reported that the *delegado* of the 50th district police station came to record his statement at the request of the State Secretary for Justice. He was then transferred to Block Six where he stayed for 30 days in a cell without a mattress or blanket. According to the information received, he was then transferred to Block Four where he has been left in his cell 24 hours a day. It is believed that he is denied visits and correspondence.

41. **Availton Dias Ferreira** reportedly attempted to escape from Block Eleven of Nelson Hungria prison on 8 March 2000. On the same day, he was transferred to the COC block where he was allegedly beaten with wooden sticks and was kicked on various parts of the body for more than 30 minutes. Then he was reportedly left naked in a cell in the COC block without a mattress or blanket for five days. His family is believed to have complained to human rights organizations. He was then said to have been punished in Block Six.

42. **George Francisco de Assis** was reportedly arrested by civil police officers in June 1998 and taken to the theft and robbery police station in Belo Horizonte where he was allegedly beaten by police officers. Later he reportedly tried to prevent a police officer from beating a boy, **Guilherme Henrique da Silva**, who had also been arrested. According to the information received, the police officer did not like this and threatened him with death several times. It is believed George Francisco de Assis was subsequently transferred to the prison in Ribeirão das Neves. His mother was allegedly threatened by a civil police officer that her son would be killed. According to the information received, he was released on 7 October 1998.

43. **Wilson Pereira da Silva** was reportedly detained at the theft and robbery police station in Belo Horizonte and allegedly beaten by a prison guard and police officers in September 1996. According to the information received, one week after his arrest, he was taken to the police station in charge of vehicle theft and robbery where he was allegedly hung on a "parrot's perch" with the help of the *delegado*, and beaten. He was then allegedly taken back to the theft and robbery police station where he reportedly continued to suffer mistreatment and to be threatened with death. He allegedly underwent an official medical examination, which registered lesions consistent with his allegations. A judicial inquiry was allegedly opened and public prosecutors reportedly visited the police station on 6 May 1997. According to the information received, the following detainees have been subjected to reprisals for having testified in the case of Wilson Pereira da Silva. **Wagner Rodrigues da Rocha** reportedly had his right arm burned with a lighter and was made to eat newspapers that had published articles about the former's accusations. He allegedly underwent an official medical examination which registered lesions consistent with his allegations. **Adilson Rodrigues** was allegedly beaten after the public prosecutor's visit to the police station. He was reportedly handcuffed to the cell bars for two hours. **Janderson Sérgio Andrade** was reported by police officers to have tried to escape during the public prosecutors' visit to the police station. He was said to have been beaten on 11 and 12 May 1997 by police officers. He was allegedly threatened with death not to talk about the incident and reportedly killed on 1 January 1999. **Wilson Bispo dos Santos** was allegedly hidden by police officers during the public prosecutors' visit to the police station

because he had marks and lesions all over his body. He had reportedly been previously kicked, punched, hit with a wooden stick and subjected to electric shocks in order to make him sign a confession. He allegedly underwent an official medical examination, which registered lesions consistent with his allegations.

44. **Herbert Almeida Carneiro** was reportedly detained at the police station in charge of vehicle theft and robbery in Belo Horizonte. According to the information received, on 22 February 1999 he was forced by three civil police officers to undress and wet his body. He is said to have been placed on a “parrot’s perch”, subjected to electro-shocks and beaten several times with a piece of wood and rubber. It is believed that he underwent an official medical examination and that a judicial inquiry has been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

45. **Adonias Barbosa da Silva**, a salesman, was allegedly arrested in Belo Horizonte on 12 November 1999 on suspicion of theft. He was reportedly beaten, punched in his back and stomach, kicked on his legs and hands and hit with a *palmatória*. He allegedly underwent an official medical examination, which is said to have registered lesions consistent with his allegations. A judicial inquiry has reportedly been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

46. **Juarez Fernandes Rodrigues**, a journalist, and Geraldo Magela de Oliveira, his driver, were allegedly driving a private vehicle on 17 February 2000 in Belo Horizonte when they reportedly saw and took photographs of a military police officer believed to be arresting illegally a 12-year-old boy. They were reportedly leaving when they were stopped by a military police officer, who had arrived in the meanwhile. An officer reportedly took his cellular phone and tried to take his camera. He then tried to make him get out of the car by hitting and grabbing him by his legs and arms. It is reported that he underwent an official medical examination. According to the information received, a judicial inquiry has been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

47. **Roberto Silvio Ferreira**, a street vendor, was allegedly approached by a military police officer in the street in Belo Horizonte on 23 May 2000. He was reportedly taken to the military police box near the bus station where he is said to have been beaten. According to the information received, a sergeant told him that he could “go peacefully” or “be under arrest for disrespect to authority”. It is said that he underwent an official medical examination. The police *ouvidor* is believed to have been informed about the incident.

48. **Clênio Kenedy de Almeida**, a 20-year-old detainee at the Nelson Hungria Penitentiary was allegedly beaten by prison guards in early 2000. He was reportedly threatened with death by a guard who pointed a gun at his head, and was allegedly kept naked in an isolation cell on a bare, wet concrete floor with no mattress. According to the information received, he was suffering from bronchitis and had bruises all over his body as a result of the beatings to which he had allegedly been subjected. His request to be allowed to see a doctor was not granted.

49. **D.S.**, aged 11, was allegedly beaten by two military police officers on 4 July 2000 in a building belonging to a private company in Belo Horizonte. The police officers allegedly hit

him three times on his head with a wooden stick and slapped him several times on his back. The incident was reportedly denounced to the police *ouvidor*.

50. **Rosivaldo Venancio Gomes**, aged 24, was allegedly arrested on 9 August 1999 on suspicion of bank robbery and taken to the theft and robbery police station in Belo Horizonte, where he was allegedly beaten.

51. **Pedro Alves Vieira**, aged 35, was allegedly arrested on September 1999, taken to the 19th district police station in Belo Horizonte and later transferred to the Nova Lima police station. According to the information received, his family was later told that he had been found dead on the same day. It is said that there were several bruises on his body. The case has allegedly been reported to the police *ouvidor*.

52. **Maurício Miranda Braga**, a 23-year-old detainee at the Nelson Hungria Penitentiary, was allegedly beaten on his abdomen and genitals on 30 December 1997. On 6 January 1998, he reportedly underwent an official medical examination and lesions consistent with his allegations were apparently found.

53. **Claudinei de Souza Goldinho, Fábio Bruno de Paula, José Alves de Moura and Flávio de Jesus**, all detainees at the Penitentiary House in Governador Valadares, were reportedly beaten by military police officers and prison guards on 25 June 2000 after they allegedly attempted to start a revolt. As a result of the beatings, they reportedly had bruises all over their bodies. Flávio de Jesus was believed to have been taken to a hospital.

54. **Rogério Corrêa da Silva**, a detainee at the Nelson Hungria Penitentiary, was allegedly beaten by a penitentiary officer on 2 August 2000. According to the information received, he was beaten because he had made accusations in a local newspaper and during a Prison Ministry mass about maltreatment that had occurred in the prison. He was allegedly punished by the prison's board of directors and sent to an isolation cell. Allegedly he should have benefited from conditional liberty, but was not released because of the disciplinary faults he had been charged with.

55. **Vanderlei Inácio de Carvalho** was reportedly detained at the theft and robbery police station in Belo Horizonte and was allegedly beaten by police officers on 24 September 1999. According to the information received, public prosecutors visited the police station on the same day and saw lesions on several parts of his body, despite the fact that police officers had tried to hide him from the public prosecutors by placing him in another cell. It is reported that the public prosecutors found a small room called the "parrot's perch room" containing objects such as a 1.5 metre iron bar, wet clothes, tyres and electric wire. During their visit it is believed that the public prosecutors noted that **Toni Carlos Fagundes, Leonardo Gomes Batista, Rogério Cesário Correia, Rodrigo Eugênio Martins and Carlos Eduardo da Silva**, all detained at the same police station, had allegedly been beaten and presented marks consistent with their allegations. Police officers reportedly encouraged the detainees to start a revolt during the public prosecutors' visit. A judicial inquiry allegedly opened. The Special Rapporteur would appreciate receiving information on the outcome of the inquiry.

56. **José Gerônimo Lopes Neto, Noé de Almeida de Jesus, Rômulo Marques da Silva and Ronaldo Quaresma da Silva**, street vendors, were allegedly arrested on 1 November 1993 by four civil police officers and taken to the bus station police unit in Belo Horizonte. It is reported that José Gerônimo Lopes Neto and Noé de Almeida were severely kicked, punched and hit with a rubber stick. Ronaldo Quaresma da Silva reportedly had his feet hit with a rubber stick. Rômulo Marques da Silva was allegedly slapped on his ears several times. They were reportedly released seven hours later. It is believed that José Gerônimo Lopes Neto and Noé de Almeida underwent an official medical examination and were found to have lesions on their bodies consistent with their allegations. A judicial inquiry was reportedly opened on 23 September 1998, five years after the incident, but it is reported that the police officers were reportedly discharged owing to lack of evidence.

57. **Milton da Penha**, a street vendor, was allegedly arrested on 15 November 1994 by a civil police officer and taken to the bus station police unit in Belo Horizonte on suspicion of selling mineral water illegally. It is said that he was severely beaten with a rubber hose by two police officers. According to the information received, he was subsequently told to wash his face and was then released. A judicial inquiry was reportedly opened. The Special Rapporteur would appreciate receiving information on the outcome of the inquiry.

58. **Adão Luiz Nogueira Leite**, a street vendor, was reportedly arrested on 16 December 1994 by three civil police officers and taken to the bus station police unit in Belo Horizonte on accusation of theft. He was allegedly punched in the face twice. He was said to have been transferred to the regional police station before being released. A judicial inquiry was reportedly opened. The Special Rapporteur would appreciate receiving information on the outcome of the inquiry.

59. **Joel Alves Costa**, a street vendor, was reportedly arrested on 14 December 1993 by a police officer and taken to the bus station police unit in Belo Horizonte where he was allegedly slapped and punched by a police officer. It is said that he was released about five hours later. According to the information received, a judicial inquiry was opened. The Special Rapporteur would appreciate receiving information on the outcome of the inquiry.

60. **Cláudio Ferreira dos Santos**, a street vendor, was reportedly arrested on 24 February 1994 by three civil police officers and taken to the bus station police unit in Belo Horizonte. According to the information received, he was beaten by the police officers at the time of his arrest. It is reported that he was released about four hours later. A judicial inquiry was reportedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

61. **F.J.S.**, a minor, was reportedly arrested on 19 November 1993 by two civil police officers and taken to the bus station police unit in Belo Horizonte, where he was allegedly beaten by the police officers. It is reported that he was released the same day. A judicial inquiry was reportedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

62. **Cláudio Pereira dos Santos**, a street vendor, was reportedly arrested on 20 November 1993 by a civil police officer and taken to the bus station police unit in

Belo Horizonte where he was allegedly severely beaten by a police officer. It is said that two days earlier, he had been arrested for some hours on suspicion of selling products illegally in the bus station and released on the same day. According to the information received, on 20 November, his girlfriend, **Thais Cristina Nonato**, went to the bus station police unit and searched for him. She reportedly heard him screaming because of the beatings he was allegedly being subjected to. It is reported that when she asked for information about him she was verbally insulted and slapped twice on the face. According to the information received, she was pregnant and fainted. She was reportedly taken to a hospital by a military police officer. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

63. **Ruidalves Gomes dos Santos** was reportedly arrested on 13 December 1999 on suspicion of having slashed his father with a knife in Salto da Divisa. At the time of arrest, police officers reportedly beat him and threw rocks at him. He was allegedly taken bleeding to a hospital, where his head was stitched. He was later reportedly transferred to a prison in Jacinto. On 2 January 2000, his sister reportedly visited him and saw that his leg was burned and that he had an open wound. He reportedly died on 7 March in a hospital. According to the information received, his dead body presented signs of severe bleeding from the nose and anus, wounds to the head, face and wrists, and lesions on the legs. A doctor is reported to have refused to perform an official medical examination. His family was allegedly told by police officers that he had suffered a heart attack and fainted in the prison bathroom, where he had reportedly been found dead.

64. **Adriano Magno Dias**, aged 22, was reportedly arrested by military police officers on 27 July 1998. He was reportedly taken to the Timóteo Public Jail, where he is said to have been beaten with a piece of wood and a rubber hose. He was then allegedly taken to the Vital Brasil Hospital to receive medical treatment and later taken back to the jail. According to the information received, he was beaten again by officers and released on the following day. It is said that he testified falsely that he had tried to escape for fear of reprisals and had fallen down a staircase.

65. **Jocimar Borges Silva**, an 18-year-old sales clerk, was reportedly arrested on 20 June 1990 at his house in Ipatinga and taken to a local police station where he was allegedly forced to undress and to hold a tyre with his arms stretched out for half an hour. It is reported that he was beaten with a *palmatório* and placed on a "parrot's perch". According to the information received, he was released the following day and underwent an official medical examination. Local media are believed to have reported his case.

66. **Loilson José Correia**, aged 27, and **Paulo da Silva**, aged 34, were reportedly arrested on 23 February 1996 and taken to the regional police station of Ipatinga on suspicion of threatening a military police officer with death. At the police station, they were allegedly beaten for three hours by two civil police officers and one military police officer. They were reportedly released the same day. It is believed they were later threatened with death. A local newspaper is said to have reported the incident.

67. **Fabiano Ferreria Dias**, aged 18, was allegedly arrested on 7 September 1996 by military police officers in a public party in Ipatinga. He was reportedly beaten during a fight in which

Marcondes Rodrigues da Silva, aged 18, and **Gilvânio Anísio dos Santos**, aged 25, are said to have been shot by officers and injured. According to the information received, Fabiano Ferreira Dias and Gilvânio Anísio dos Santos were first taken into the bush, where they were beaten, and later to the local police district. It is believed that Fabiano Ferreira Dias lost part of his vision due to the beatings.

68. **Domingos Furtado de Oliveira**, a 34-year-old unemployed man, was allegedly arrested on 15 May 2000 and taken to the regional police station in Ipatinga. He was reportedly taken into the bush, where he is said to have been severely beaten by four military police officers. According to the information received, he was taken back unconscious to the police station. It is believed that on the following day officers told him that, if he bought a musical compact disk recorded by the chief police, he could be released. He allegedly accepted and was released. It is reported that he was so severely injured that he could not get back home by himself. He was reportedly found by his neighbours after he fainted in the street near his house. He was allegedly taken to a hospital where he reportedly remained for 10 days. According to the information received, he had to undergo a surgical operation because of the beatings.

69. **Jorge Natale** was reportedly taken by police officers to the theft and robbery police station in Belo Horizonte on 3 November 1998 to testify about a robbery which had occurred on 30 October 1998 in the private company where he was working. He is said to have been accused by the police officers of having given information to the robbers. It is reported that he was placed on a "parrot's perch", submitted to electro-shocks on several parts of his body, beaten several times with a piece of rubber and slapped on his head. According to the information received, he underwent an official medical examination and a judicial inquiry was opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

70. **Júlio Alves da Silva**, detained at the theft and robbery police station in Belo Horizonte, was allegedly beaten twice between December 1998 and April 1999. He is reported to have been beaten with a piece of wood and rubber. According to the information received, he underwent an official medical examination a long time after the beatings and he was threatened with death if he spoke about the incident. It is believed that witnesses saw bruises and lesions on his body. A police officer is reported to have asked him for 1,500 reais to transfer him to another police station. Since he reportedly refused, he was not allowed to receive visits. He was allegedly later transferred to another police station, where he reportedly denounced the incident. A judicial inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

71. **Alexandre Santos Andrade, Adilson das Dores Silva, Jean Carlos Ribeiro dos Santos, Wanderson Tales Nonato, Leonardo Gomes Batista, Carlos Eduardo Machado da Silva, Wanderson Pereira de Souza, Silvinei Ribeiro Pereira, Darlan de Souza Milagres** and **Gabriel Afonso de Araújo**, all detained at the theft and robbery police station in Belo Horizonte, were reportedly beaten and submitted to diverse forms of torture by a prison guard between January and October 1999. It is reported that on several occasions this guard asked the prisoners for money to transfer them to less crowded cells at the police station or to another jail. It is believed that detainees who refused to pay were punished, in particular by being denied visits or by being prevented from going to the courtyard. An inquiry was allegedly

opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

72. **Gincarlos Nogueira Mainarte** was reportedly arrested on 4 February 1998 at his work by civil police officers who took him to the theft and robbery police station in Belo Horizonte. According to the information received, he was slapped, kicked and punched on several parts of his body. He was also allegedly hit on the soles of his feet with a piece of wood and rubber. He reportedly underwent an official medical examination. A judicial inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

73. **Wellington da Silva Fereira, Carlos da Silva and Rogério Gomes da Silva** were allegedly arrested on suspicion of armed robbery on 25 November 1998 by three civil police officers in Belo Horizonte. They were reportedly taken to the division of crimes in the theft and robbery police station, where they were allegedly severely beaten. It is reported that Wellington da Silva Fereira died as a result of the beatings to which he had allegedly been subjected. His body was allegedly not seen by anybody after it was taken away by police officers. It is reported that there were witnesses to the incident and that a judicial inquiry was opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

74. **Luiz Antônio Mariano** was allegedly approached at his workplace on 10 April 1997 by a security inspector who worked for the company in which he was employed. He was reportedly invited to accompany him to the headquarters of the security company, where they were reportedly joined by a police officer. He was then reportedly slapped, kicked, punched and hit with a piece of wood with a rubber tied on its edge. He was reportedly then taken to the 11th district police station. He allegedly underwent an official medical examination in which lesions consistent with his allegations were reportedly found. A judicial inquiry was reportedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

75. **C.H.O.**, a 16-year-old student, allegedly went to a police station in Belo Horizonte to ask for protection on 27 September 1997. He had reportedly kissed on the mouth his one year younger cousin and was being threatened by her father. According to the information received, after narrating the facts to the *delegado* he was taken to a separate room by a civil police officer along with other suspected juvenile offenders. The civil police officer reportedly told them that C.H.O. was "crazy and a rapist" in order to stimulate reprisals. It is reported that he was taken to a bathroom, kicked, punched and subjected several times to oral and anal sex. He was reportedly subsequently taken to another room, where he was reportedly slapped in the face by an officer. According to the information received, he was taken back to the previous room, where he was allegedly again subjected to sexual violence by the other minors. He is said to have been kept at the police station for 10 hours. A judicial inquiry was reportedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

76. **Jackson Antônio da Silva and Darcy Fernandes Neves**, both detained at the Dutra Ladeira Detention House in Ribeirão das Neves, were reportedly caught by prison guards on 4 January 1999 while trying to dig a hole in their cell. They are said to have been severely kicked, punched and hit with iron bars by the guards. They were reportedly taken to a room and

kept undressed for a whole night after being washed with cold water. As a result of the beatings, Jackson Antônio da Silva allegedly had a hole in his abdomen. They were reportedly taken to hospital, where, according to the information received, an HIV positive prisoner, **Vicente Simeão Alves**, witnessed the prison guards committing further torture. The latter is said to have been denied medical attention as a means of threatening him not to disclose information about this and other incidents. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

77. **Vaubim Antônio Soares**, detained at the theft and robbery police station in Belo Horizonte, was reportedly asked by a police officer for 2,000 reais to be transferred to another jail. He allegedly had only 500 reais to offer and the negotiation was reportedly not concluded. According to the information received, he started to be persecuted by the officer who had asked him for the money and, on 29 December 1997, he was reportedly taken to a separate room, where he was allegedly placed on a “parrot’s perch”, electro-shocked several times and hit with a piece of wood until he fainted. He is said to have had serious injuries to his testicles as a result of the beatings. He reportedly underwent an official medical examination. According to the information received, he and his family subsequently received death threats. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

78. **Carlos Henrique Barbosa, Elizete Reisa da Silva, Magali Antônia Lopes, Genaldo Bibiano Lopes, Glorinha Rosa Queiroz da Silva, R.V.L.**, aged 12, **Ivani Rosa Lipriman, Fernando Romano da Silva** and **Edmilson Braz Ferreira** were reportedly arrested at their houses in Belo Horizonte between 21 and 23 October 1995 and taken to the investigations department police station. They were allegedly severely beaten in order to force them to reveal the whereabouts of **Luiz Antônio Barbosa**, who had allegedly killed a civil police officer. According to the information received, some witnesses saw Luiz Antônio Barbosa being “arrested” later by police officers. He was reportedly found dead and the 2,000 reais he reportedly had on him were missing. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

79. **Nilson José Mateus da Silva** was allegedly approached and shot for no known reason by civil police in Belo Horizonte on 27 June 1996. He was then allegedly handcuffed and beaten. According to the information received, he was subsequently taken to the Santa Luzia police station, to the Dom Bosco Hospital and to the João XXIII Hospital by the officers who had allegedly beaten him. He is said to have been punched in his abdomen and mouth on the way to the first hospital. It is reported that he had one tooth broken and that he underwent surgery. According to the information received, police officers falsely claimed he had been caught in possession of narcotics and weapons and tried to force his family, while he was in the hospital, to give them 3,000 reais in order for them not to “take the necessary measures”. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

80. **Roberto Aparecido Leal** and **Willian Gontijo Ferreira**, detained at the State Department of Special Operations in Belo Horizonte, were reportedly undressed and beaten on 4 March 1996. **José Mauro Oliveria Alves, Aliton Teixeira Costa, Djalma de Melo Martins, Wagner Luiz de Carvalho, Luiz Carlos Bernardes Pires** and **Antônio de Páuda Vargas**,

detained in the same institution, were allegedly submitted to various forms of torture between 3 March 1996 and 5 April 1997. Public prosecutors carrying out an investigation on 9 April 1997 found a room containing torture tools, including a “parrot’s perch”. According to the information received, one penitentiary agent was accused of having put “make up” on the prisoners’ injuries in order to hide their lesions. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

81. **José Elias Rodrigues**, his wife and his three-year-old son were allegedly arrested on 8 June 1995 on suspicion of using narcotics. They were reportedly taken to the theft and robbery police station in Belo Horizonte where, José Elias Rodrigues was allegedly placed on a “parrot’s perch”, held under water and almost suffocated in order to force him to reveal the location of **Antônio Rosário Gonçalves**. He is thought to have given that information to the officers. Antônio Rosário Gonçalves was reportedly arrested the same day and his brother, **Itamar Ferreira Gonçalves**, was reportedly beaten, shot and injured by the same officers at the time of that arrest. Antonio was taken to the theft and robbery police station and charged with narcotics trafficking. According to the information received, the officers falsely claimed both men were caught in flagrante delicto. It is reported that they were subsequently transferred to the police station in charge of narco-trafficking, where José Elias Rodrigues and Antônio Rosário Gonçalves are said to have remained for around 45 days and for 30 days respectively. According to the information received, they were submitted to new beatings during their detention. An inquiry is believed to have been opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

82. **Bertoldo Mateus de Oliveria Filho**, a 39-year-old state attorney, was allegedly involved in an argument with a taxi driver on 9 August 2000. The driver reportedly kicked his face and tried to run over him with the vehicle when the above-named person left the car. Bertoldo Mateus de Oliveria Filho allegedly called the military police, who, on arrival, verbally abused him, handcuffed him violently and threw him to the ground. He was allegedly taken to a military police box where an incident report with false information was drafted. This report is believed to have been published by the local media. According to the information received, a judicial inquiry was opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

83. **C.S.T.**, aged 14, **R.A.Q.**, aged 16, **N.F.L.**, aged 10, **J.D. de O.F.**, **A.L.R. de S.**, aged 15, **A.P.S.**, aged 12, **N.G.M.**, **R.C.F.**, aged 10, **R.S.A.**, aged 15, **F.C.S.**, aged 17, **F.G.S.**, aged 17, **L.S.S.**, aged 13, **A.S.**, aged 15, **W.A.**, aged 14, **J.R.S.**, and four other young people, all homeless teenagers, were allegedly approached by four military police officers in Belo Horizonte on 20 May 1996. According to the information received, they were sniffing thinner and shoemaker’s glue. The officers allegedly beat some of them and took them to a deserted area where the boys were reportedly told to undress and forced to do physical exercises. Meanwhile, the girls were allegedly forced to undress and to practise oral sex on each other. The girls are said to have been submitted to other sexual abuses. The teenagers were allegedly forced by the officers to have sex between themselves. The boys were reportedly threatened with having their genitals hit with a stick. The officers allegedly created a “fighting arena” and forced the oldest boys to fight among themselves. All the teenagers were then reportedly told to dress and forced to sing and to pray. When they heard voices, the officers allegedly stopped and the teenagers

were reportedly released. According to the information received, a judicial inquiry was opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

84. **Marcelo Ribeiro dos Santos** is said to have been drunk when he reportedly had a misunderstanding with airport security employees at the Belo Horizonte airport on 10 October 1998. According to the information received, a military police officer passed by, threw him onto the floor and applied a hold called the “key” (“chave”) in which he enclosed Marcelo Ribeiro dos Santos’s neck with his legs. He was allegedly taken to the Venda Nova Hospital, but he was reportedly dead on arrival. A judicial inquiry was reportedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

85. **César Antônio Cossi**, a public prosecutor, and his wife, **Márcia Cristina Balbi Cossi**, were allegedly stopped by military police officers on 22 June 1995 while driving in Belo Horizonte. They were reportedly asked by the officers to take a severely sick old lady to hospital. The officers allegedly abused them verbally and punched and kicked César Antônio Cossi. The couple are said to have left and gone to the bus station, where they reportedly had to fetch a relative. According to the information received, when they left the station they were followed and stopped by a military police vehicle, and their vehicle and documents were confiscated. They were allegedly taken to a police station, where they are thought to have remained for one hour before being released. It is reported that they were verbally abused and threatened with death. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

86. **Gustavo Ferraz de Matos**, a 19-year-old street dweller, was allegedly approached by a military police officer at a bar near the Belo Horizonte bus station on 26 January 2000. According to the information received, he was handcuffed and taken to the Carijós police station, where he is said to have been severely beaten for approximately one hour as a punishment for having allegedly robbed a policeman’s girlfriend. It is reported that after that he was “thrown” back into the bar. He was allegedly taken by the Human Rights Coordination Office to the João XXIII Hospital, where he reportedly underwent an official medical examination and received medical treatment.

87. **Waldemar Santos Amaral** was reportedly punched on several parts of his body by military police officers after he allegedly fell asleep on a bench at the Belo Horizonte bus station while awaiting his brother’s arrival on 24 February 2000. He was allegedly taken to the military police box inside the bus station, where he is said to have been beaten and threatened with death. When he was released, he allegedly underwent an official medical examination.

88. **Adolfo de Souza Barbosa**, a street seller, was allegedly working at the Belo Horizonte bus station on 16 May 2000 when he became involved in an argument with two other street sellers. According to the information received, the police arrived and took the three of them to the military police box inside the bus station, where it is reported that they were beaten. Since he was severely injured, he was reportedly taken to the João XXIII Hospital and underwent an official medical examination. The police *ouvidor* was reportedly informed about the incident.

89. **João Ribeiro Filho**, was allegedly beaten by a military police officer at his repair shop in Belo Horizonte on 19 August 2000. He was reportedly taken to the 8th military police battalion,

where he was allegedly beaten again by five military police officers. He was reportedly kicked in his genitals and fainted. According to the information received, his right hand and two ribs were broken as a result of the beatings. He is said to have been later taken to the military police station, where an incident report was recorded. He reportedly underwent an official medical examination. The case was allegedly reported to the State Secretariat for Human Rights.

90. **A.P.F.**, a minor, was allegedly arrested under suspicion of theft. He was reportedly taken to and kept at the “Guarda Municipal” in Monte Alto, where he was detained between early 1991 and August 1992. He was allegedly allowed to go home at weekends. According to the information received, during this period he was beaten on several occasions by the municipal guards, especially with a tool named “*pinto de boi*” and with the branch of a tree about half a metre in length. It is reported that he ran away, but was captured and beaten as a punishment. An administrative inquiry was allegedly opened and later filed.

91. **R.A.B.**, a minor, was allegedly kept and beaten several times at the “Guardia Municipal” in Monte Alto from 1991 to 1992. It is reported that once a municipal guard threw urine at his face and that on another occasion he was obliged to lick the officer’s spit on the floor. Apparently, he used to be woken up by water being thrown at him. His parents tried to talk to the local public prosecutor, but he reportedly verbally abused them and sent them away. The municipal guards reportedly used to mix horse’s dung with water and to throw that at R.A.B. An administrative inquiry was allegedly opened and later filed.

92. **E.V.**, a minor, was allegedly kept at the “Guardia Municipal” in Monte Alto from 1991 to 1992. He was allegedly beaten several times with clubs, rubber sticks and a broomstick. He was also reportedly kicked and punched on several occasions. He reportedly had a broken tooth as a result of the beatings. According to the information received, he was once woken up by a guard and told to wash his vehicle. As he reportedly refused, the guard allegedly threw hot coffee down the back of his shorts. He is said to have escaped once and to have been caught. According to the information received, he was beaten with the “*pinto de boi*” as a reprisal. It is reported that several years later he still had marks from these beatings.

93. **Antonio Alves da Silva** was reportedly transferred from D block of the Unai penitentiary to the Nelson Hungria prison during the week of 21 August 2000. When he and other inmates arrived, they were said to have been beaten by the regular security officers on duty. At night, officers of the GAT police wearing ninja hoods reportedly took them out of their cells and beat and kicked them in the corridor. Antonio Alves da Silva was reportedly kicked in the lower back and on his foot, although he had told the officers that he had been operated on. As a result, his lungs, kidneys and spleen are said to have been perforated. At the time of the interview (3 September 2000), marks consistent with his allegations, such as a scar on his lower back and his left inner foot, were still visible.

94. **Dalton Costa Miranda** was reportedly transferred from Unai penitentiary a month or two before his scheduled release and was beaten on his back and head on arrival at Nelson Hungria penitentiary by eight or nine guards with a thick wooden stick for about 20 minutes. At the time of the interview (3 September 2000), marks consistent with his allegation, such as a scar on his lower back, were still visible.

95. **Olemar Goncalves de Noronha** was reportedly arrested in Araguary after being caught stealing from a grocery store. He was said to have been beaten and subjected to the technique called the “parrot’s perch” by police officers until he signed a confession to another crime, which he denies having committed. It is believed that on the basis of this confession, he was sentenced to 15 years’ imprisonment. When he said in court that he had been tortured, the judge allegedly laughed and looked at the prosecutor.

96. **Rildo Luis Dias** was reportedly beaten by guards at the Nelson Hungria prison on or about 24 July 2000 after he had refused to submit to a strip search and to remove his underwear before going into the yard. He is said to have followed the usual search procedure and to have stated that he would rather not go out if he was strip searched. It is believed that searches had never involved removing underwear before. Subsequently the guards are said to have hit him in the stomach, to have insulted him, broken his television set, destroyed his fruit, ripped his bed linen and mixed soap powder into his food. They reportedly cut his water supply for three days. About three days later, guards from another team arrived and reportedly beat him again, threw ketchup on his clothes and threw his toiletries in the toilet. After two weeks, he was reportedly medically examined. At the time of the interview (3 September 2000), marks consistent with his allegations, such as marks on his stomach, were still visible. Some guards are said to have threatened that his problems were only just beginning. He was placed in the punishment cell for 30 days. His family are said to have asked the Human Rights Commission to monitor his case.

97. **Vinicius Rezende Costa** was reportedly transferred to Nelson Hungria prison in mid-May 1997. In April 1997, he was said to have been arrested and taken to the theft and robbery police station of Belo Horizonte, where he was allegedly tortured. In mid-1998, he is said to have had an argument with the *delegado* at the DESOPE, who is said to have slapped him in the face without a reason. In a reflex action, Vinicius Rezende Costa reportedly hit him back. Other detectives were said to have arrived and to have subdued and beaten him. As a result, he is said to have suffered from a broken rib and a cut under his eye. The Parliamentary Commission of Inquiry is said to have been informed about the case. No inquiry is said to have been carried out.

98. **Alexandre Cezar da Silva**, an inmate for over five years and eight months at the Nelson Hungria prison in Belo Horizonte, who had reportedly been sentenced to eight years in prison, is said to have been tortured on the “parrot’s perch” at the theft and robbery police station of Belo Horizonte in 1989 and at the Department of Investigation in Contage in 1993. He had reportedly been arrested at 5 a.m. on 12 June 1993. The following day, police officers reportedly found that he had a previous police file. The officers are said to have demanded to be given some of his belongings. Around that time, he was said to have been placed on the “parrot’s perch” by officers who were reportedly drunk and on drugs. They are said to have tied his hands together and to have blindfolded him with his own shirt. They then reportedly threw water over him, gave him electric shocks on his tongue and beat him for four hours. They are said to have spat on him and laughed at him. At the time of the interview (3 September 2000), marks consistent with his allegation, such as scars on both his legs and arms, were still visible.

99. **Cleison Costa Silva** was reportedly transferred to Nelson Hungria prison at the beginning of May 2000 from a police station. Due to an argument with a police *delegado* in April 1998, he was allegedly singled out as the head of a revolt. Upon arrival, he was said to have been beaten

by guards, who reportedly broke his jaw. They also allegedly took his belongings and 40 reais from him. Since then, he is said to have received several death threats from guards. He reportedly asked for permission to work and obtained working materials. In mid-August 2000, they were reportedly taken away from him.

100. **Nivio Cesar Rocha**, who had reportedly been sentenced for kidnapping and abduction of the daughter of a colonel, is said to have been transferred to Nelson Hungria prison on 17 August 1996 from the rural penitentiary in Neves with two other men. Upon arrival, they were reportedly made to take a cold shower. Once they left the shower, they were allegedly beaten by members of the night team at around 11 p.m. He was reportedly taken to a room in the administration wing, where the guards are said to have tripped him up. He reportedly hit his head on the floor. In the corridor, he was allegedly given electric shocks and to have been kicked. He was reportedly beaten by eight or nine officers for half an hour and nearly raped with a stick. His family is said to have filed a complaint with the court which was allegedly not pursued as an inquiry was said to be ongoing in the prison. The guards involved were reportedly not suspended or punished. One is said to have risen to the position of team leader, and then to head of discipline in the penitentiary. As a result of the beatings, Nivio Cesar Rocha is said to have suffered a broken rib and a broken vertebra. He was reportedly taken to the director, who allegedly asked him to withdraw his complaint, which he refused. Since then, he is said to be intimidated and harassed by the head of discipline of the penitentiary. When he is close to progressing to a half-way house, the head of discipline of the prison is said to arrange a misdemeanour and to place him into a punishment cell for 30 days. These transgressions are then considered a serious breach of the rules, deferring any progression for a further year. He was said to be denied access to medical treatment and legal assistance, as well as to any progression in prison. On 30 July 1997, he was said to have undergone another medical examination, as requested by the prosecutor. Since then, no police officer is said to have been prosecuted.

101. **Julio Cezar Silva Cabrão** was reportedly transferred to Nelson Hungria prison on 19 December 1999. He is said to have been hit between the eyes during the transfer by the director of Oberlandia who allegedly shouted close to his ear, threw him on the floor and kicked him. Although it is believed the transfer began at 9 p.m. and finished at Nelson Hungria at 7 a.m. the next day, he was asked to sign that he had arrived at 5 a.m. It is alleged that usually the transfer takes six hours. According to the information received, he was allegedly beaten at all the stops and a major (whose name is known by the Special Rapporteur) did not want to send him to the Forensic Medical Institute. He was reportedly taken to the Criminological Operation Centre (COC) of the Nelson Hungria prison where he spent 30 days and where he and other inmates are said to have been regularly beaten at night by prison guards. It is believed that he was the one to have been beaten the most severely because he was suspected of having participated in the killing of a lawyer. He was reportedly usually asked to take off his clothes and beaten with nightsticks and electric wires, and cold water was thrown at him. He was also allegedly repeatedly slapped on his left ear. As a result, at the time of the interview (3 September 2000), he could apparently not hear any more on that side. Marks consistent with his allegations were still visible on his body. During the 30 days at the COC, he is said to have never been examined by a doctor and only given pain killers by nurses. He was reportedly not entitled to receive visits. According to the information received, one spring night in 2000 about 20 to 30 guards armed with thick wooden sticks, went to his cell, threw water at him and gave

him electric shocks in the genitals. He allegedly talked about the beatings at the COC with a prosecutor in June 2000.

102. **Valdo Sebastião da Silva**, detained at Nelson Hungria prison, was reportedly tortured on 31 August 2000 during a hearing in Campobello. He is said to have been driven for 370 kilometres in a military police car in which he was handcuffed with his hands behind his back. It is believed that the military police did not drive carefully and sped up if there were bumps on the street. Before the hearing he was reportedly taken to a military police box in Campobello and humiliated and threatened for two hours. According to the information received, on the way back after the hearing, four military police officers stopped the vehicle, urinated on his face and hit him on his stomach. They reportedly put a white piece of rubber on his back and stomach and beat him. It is alleged that he was also repeatedly hit on his hands. It is thought that he received this treatment because he accused some military officers during the hearings. He is believed to have been in the hands of the military police from 9 a.m. to 10 p.m. As a result, his lower jaw was apparently loose and he allegedly had pain in the abdominal area. He had reportedly asked for medical attention, without results. At the time of the interview (3 September 2000), he was still bearing marks on his wrist consistent with his allegations.

103. **Cleibe Leonel Viana** was reportedly transferred to Nelson Hungria prison in September 1999 and kept in the "security room" for 16 days, wearing only his underwear. According to the information received, cold water was thrown on him at night and he was hit with a wooden stick by eight guards of a special team at the time of his arrival.

104. **José Vitorio dos Santos** was reportedly transferred to Nelson Hungria prison on 31 January 2000. According to the information received, he was beaten on his arms and chest with wooden sticks for more than four hours by four prison guards in the Criminological Observation Centre (COC) because he had allegedly been involved in an 1997 escape attempt. He allegedly asked to be taken to the Medico-Legal Institute but was taken to a normal doctor, escorted by penitentiary guards. The doctor is said to have examined him, to have reported that he had injuries all over his body and to have asked how he was injured. It is believed that he could not say the truth because of the presence of the guards. He allegedly talked about the beatings with a lawyer, but with no results. As a result of the beatings, he is believed to have kidney problems.

105. **Luciano Aparecido dos Santos**, a detainee at Nelson Hungria prison, was reportedly beaten on 31 August 2000 when he was moved from his cell. According to the information received, one of the teams composed of 12 guards started to slap and kick him at the entrance of the block to which he was transferred. The following day he was handcuffed and taken to a security cell by 12 guards. He was allegedly beaten on his ribs with sticks for about three hours by seven guards. It is believed that he fainted and did not answer their questions. His request to see a doctor was reportedly denied.

106. **Maria da Penha da Silva**, from Espírito Santo, was reportedly arrested on 4 June 2000. She was subsequently allegedly taken to a small room at a bus terminal in Belo Horizonte by two policemen and a policewoman who questioned her about drugs and reportedly beat and kicked her for some 30 minutes, compressed her neck and stuck a garbage bag in her mouth. She is then said to have been unable to swallow and to have suffered from a pain in her throat for a week.

Allegedly, as a result of the ill-treatment, she signed a confession. She was reportedly subsequently transferred to the women's police lock-up of the Department of Investigation of Belo Horizonte. Her request for a medical examination was reported to have been denied.

107. **Elza Vidal de Souza** was allegedly arrested on 14 June 2000 on suspicion of having committed a crime under article 157 of the Penal Code. Five military police officers from the 10th district police station of Neves, who were said to have been wearing ninja masks, reportedly beat her on the head with the butt of a revolver. They allegedly took her to a forest, where they placed a rifle to her head, compressed her neck and threw her into a hole. They reportedly told her that if she did not reply to their questions, they would kill her and bury her in the forest. They are said to have told her to lie down, to have punched her and to have kicked her on the back and stomach. They reportedly hit her on the head. Subsequently, she is said to have been transferred to the 7th district police station, then back to the 10th district police station, where she allegedly remained for one month. She reportedly only received medical treatment three hours after her transfer to the Neves police station. She was reportedly given stitches at the Medico-Legal Institute without anaesthetic. Military police officers were reportedly present in the hospital room at the time of the medical examination. At the time of the interview (4 September 2000) at the lock-up of the main police station, Department of Investigation, Belo Horizonte, she was still said to be suffering from headaches as a result of the ill-treatment.

108. **Vilma de Oliveira Tomás** was allegedly arrested on 12 August 2000. During the arrest she was allegedly kicked to the head and beaten by three military police officers. She was reportedly brought to the 2nd district police station in Belo Horizonte, where she was beaten with a gun on her head and with a wooden stick on her arm. She was further said to have been beaten on her feet and head for half an hour with a *cocota* (tyre rubber wrapped around a wooden stick). She was allegedly told not to shout by the military police officers. She is said to have signed a prepared confession under threat of further beatings.

109. **Maria dos Santos de Souza** was allegedly arrested on 14 May 1999 in her home in the Suzana neighbourhood in Belo Horizonte. Twenty military police officers reportedly broke down the door of her house at 4.30 a.m. while she was asleep. They are said to have asked her to tell them who the drug lord of the area was. They reportedly took her to the narcotics division of a civil police station, where they are said to have hit her head against the wall and stifled her. She was said to have been released from the police station on 16 August 1999, but later rearrested by the same military police officers. Maria dos Santos de Souza is reported to have lodged a complaint with the office of internal affairs.

110. **Patricia Nascimento Marques** was reportedly in a hotel room in January 2000, with a female friend and two male friends, when military policemen knocked on the door. Two military police officers are said to have started beating her, asking her whether she had participated in a robbery. She was allegedly naked at the time. Three military policemen reportedly took the two men into the room next door. Patricia Nascimento Marques and her female friend are said to have denied participating in the robbery. They were reportedly brought to the women's lock-up of the Department of Investigation of Belo Horizonte, then to the theft and robbery police station, where they were said to have been beaten on the palms of their hands with a *cocota*, to have had garbage bags tied around their throats so that they could not breathe and to have their heads covered with garbage bags by four military police officers and one inspector. They were

reportedly told to sit in a corner, where the officers threw staplers at them and kicked them when they dozed off. Subsequently, they were said to have been taken to a small room, where they were beaten further and given electric shocks. The police *delegado* reportedly arrived and Patricia Nascimento Marques was said to have been presented with three pieces of paper on which were written confessions to having committed burglary, bodily harm and organization of a gang. She said she would not sign them and was reportedly beaten again. She reportedly signed a confession to organizing a gang. She later requested to be sent to the IML, as she was said to be virtually unable to walk due to the swelling of her feet. The police officers reportedly denied the request on the basis that she bore no marks. Her trial was said to have been scheduled for 5 October 2000.

111. **Sheila Barbosa** was reportedly arrested on 5 February 2000 by about 20 officers of the military police. One of them allegedly sexually assaulted her and kicked her. As a result, it is reported that her breast was swollen and her legs were covered with large bruises. It is believed that she was beaten in order to extract information on the location of a man with whom she was having a relationship and who was wanted by the police. She was reportedly asked to phone him and to set up an appointment. She is believed to have refused. She was then taken to the police station of Campina Verde, where she refused to give her real name in order to protect her boyfriend. On 7 February, she was reportedly informed that he had been killed and therefore decided to reveal her true identity. The police officers then found out that she was the subject of an arrest warrant in the State of Minas Gerais. She was informed that four officers would be coming from Minas, one of whom she knew (and whose name is known to the Special Rapporteur). She is said to have already been ill-treated by this officer when she was arrested previously in a drug case. When this officer arrived with his colleagues, it is reported that she was left alone with him in a small room, where they allegedly remained for nine hours. Handcuffed, she was allegedly sexually harassed, beaten, and her head was put in a bucket full of water. It is believed that she fainted on several occasions and was given some drugs. When she left the room, she was allegedly forced to sign some papers which she did not read. She was then reportedly given a bath and showed to the media who were waiting outside the police station. The following day, the same police officer allegedly threatened her by saying: "I will take you to Brasilia, and between here and Brasilia there are a lot of streams". She is reported to have stayed for some 25 days in Campina Verde police station. During this period, she is said not to have been interrogated. She is believed to have tried to commit suicide with sleeping pills that were given to her. On 3 or 7 March, she was reportedly transferred by car to Brasilia by the same officer who had allegedly raped her. Upon arrival in Sobradinho police station, she was allegedly handcuffed to a window, seated on a bench. She is said to have remained handcuffed for an entire day. On the following day, she was allegedly taken to the bush by the same officer and other police officers. Gunshots were fired above her head and she was allegedly threatened. Taken back to the police station, she reportedly got in touch with her family. At the end of the following day, her sister arrived at the police station, but she had just been transferred to the women's prison in Brasilia. Before her transfer, she had reportedly been examined by a forensic expert to whom she complained about the treatment she had allegedly been subjected to in Minas Gerais. She was not shown the medical certificate. According to the information received, police officers from Sobradinho police station went several times to the prison, allegedly to take her out. According to her family, no one had been informed of her arrest and were told that they could not visit her for the first 30 days of her detention in Campina Verde police station. The Commission of Human Rights of the Congress is believed to have written a

letter of concern to the police *ouvidor* of Minas Gerais, *inter alia* asking for measures to be taken immediately to have her visited by a doctor. The police officer responsible for the rape is reported to have threatened other members of her family if she continued to complain. Her family is said to have complained about these incidents to the police to no avail.

112. **Valeria Vieira Lopez**, a detainee at the women's section of the Department of Investigation, was reportedly slapped and called "black woman" when she returned to her cell after work on 3 September 2000.

113. **Zilda Messias Coelho**, a detainee at the women's lock-up of the Department of Investigation, was allegedly beaten by two officers of the night shift and a civil policeman during a night in June 2000. They reportedly took her out of the cell, slapped her, grabbed her by the neck and allegedly nearly strangled her. They are further said to have hit her head on the floor, as a result of which she is believed to have fainted. She was then allegedly taken to the hospital where she is believed to have received some medication. She reportedly brought this ill-treatment to the attention of the *delegado*, who is said not to have taken any action.

114. **Glaucia Andreia Gonçalves** and two other persons were allegedly arrested by six military police officers in Belo Horizonte on 19 August 2000. The police officers allegedly kicked her, made her take her clothes off and forced her to dance and sing. They reportedly hit her on the head with the butt of a gun and slapped her until her head bled. Approximately three hours later, she is said to have been taken to the Department of Investigation at 5.30 a.m. where her request to be taken to the IML was allegedly denied. At the police station she was reportedly asked to sign what she afterwards discovered was a *nota de culpa* without any explanations. It is believed that she did not see a lawyer.

115. **Elisabeth Maria Alves Motta** was reportedly beaten and arrested on 25 June 1999. According to the information received, when she arrived at home she found 20 police officers inside and one of them hit her with the butt of his weapon on her forehead. The people inside the house had allegedly already been beaten. It is reported that her foster son, aged 18, was beaten until he started to vomit blood. At that point, three hours after she had arrived, she allegedly admitted to drug charges. The police reportedly drove her around in a car for a long time because they allegedly wanted the press to be at the police station when she arrived. It is believed that at 8.00 a.m. they finally took her to the narcotic drugs *delegacia* where she reportedly said that the drugs found were not hers. She was allegedly threatened and denied food and water for four hours. At about 4.00 p.m., her lawyer arrived and reportedly told her to sign a confession in order to receive water and food. According to the information received, she signed, and was then taken to the Department of Investigation where her request to be taken to the IML to confirm that she was a drug addict was not granted. The judge allegedly sentenced her to six years in prison.

116. **Anderson Laureço de Santana** was reportedly beaten for two hours by four to five police officers of the theft and robbery police station in Belo Horizonte on 6 July 2000 after having allegedly been stripped naked. He was said to have been kicked and punched, as well as beaten with a large night stick. As a result, some of the teeth in his upper jaw were reportedly broken. His face is said to have swollen up, he is said to have felt very dizzy and to have

sustained injuries to the head. He was reportedly denied medical treatment. At the time of the interview (3 September 2000), marks consistent with his allegation were still visible.

117. **Julio Cesar Brisda** had reportedly been arrested by five police officers at the beginning of June 2000 and brought to the Department of Investigations of Belo Horizonte. He was allegedly hit in the face and on his arms in order to make him sign a confession. He is said to have refused to do so. He was reportedly beaten three times, twice for about half an hour. As a result, he is said to have finally agreed to sign a confession. After a day, he was reportedly transferred to the theft and robbery police station in Belo Horizonte, where four police officers are said to have beaten him and to have told him that he was worthless. He reportedly had several teeth broken by police officers on a Friday at the beginning of June 2000, shortly after he had been brought to this police station. He was said to have been subjected to the “polish corridor”. The police officers are also said to have hit him on the right arm and on a platinum graft in his left leg. He was also said to be suffering from a fungal infection due to the unsatisfactory hygienic conditions in the cell he was detained in at the theft and robbery police station in Belo Horizonte.

118. **Edivaldo Grisolgo Guimaraes** and **three other men** were reportedly arrested on 6 July 2000 by more than 40 military police officers. They were said to have been taken to a deserted place after a two-hour drive. They were allegedly beaten with a wooden stick and with guns. Edivaldo Grisolgo Guimaraes was also allegedly kicked. The police officers are said to have broken a rib on his right side, as well as a bone in his left forearm and to have hit him on the head, causing a dent in his skull. Then they are said to have taken the four men to the Department of Investigation of Belo Horizonte, and after a day Edivaldo Grisolgo Guimaraes was reportedly transferred to the theft and robbery police station in Belo Horizonte. Fifteen days after his arrest, his family is said to have discovered his whereabouts. As a result of the beatings, he is believed to have suffered from amnesia for 40 days. The police officers are said to have used psychological pressure to make him sign a confession and military police officers allegedly beat him at the police station. At the time of the interview (3 September), he was reportedly in need of a tooth extraction.

119. **Jose Jorge Cruz**, who was detained at the theft and robbery police station in Belo Horizonte, was said to be suffering from pains in his stomach and back since the morning of 2 September 2000, and possibly pneumonia. He was said not to have received any medical attention.

120. **Roni Ferreira Bernardes** was reportedly suffering from a broken left foot, which was swollen, and, at the time of the interview at the theft and robbery police station in Belo Horizonte (3 September), had not been let out of his cell for 45 days. He was said not to have received any medical attention.

121. **Carlos Adão de Brito** had reportedly been arrested on 1 September 2000 by military and civil police officers, who are said to have beaten him and a number of his relatives in his own house. He was reportedly beaten by the officers over his left ear on top of a bullet which had lodged in his head. His wife, who was reportedly pregnant at that time, was said to have been slapped. At the Department of Investigation in Belo Horizonte, officers reportedly forced him to sign a confession indicating that he had been carrying a weapon. He was said to have been hit with a rubber truncheon (*cocota*), including on his back, for half an hour. His arrest was said to

have occurred in the context of a surprise attack on the whole *favela*. On 2 September, he was reportedly hit on the head again and given electric shocks at the 3rd district Police station, located in the same building as the theft and robbery police station in Belo Horizonte.

122. **Edmund Silver Boy**, from Espirito Santo, had reportedly been arrested on suspicion of bank robbery. In 1999, he was said to have been subjected to the technique called “parrot’s perch” at the theft and robbery police station in Belo Horizonte. After speaking to Internal Affairs officers visiting the police station about three times, he was reportedly beaten again. At the beginning of August 2000, an officer reportedly burnt his right upper arm with a cigarette after he had talked to a *corregedor*.

123. **Fabio Almeida Gomes** and **Denilson Antonio Alexandre** were allegedly transferred on 24 August from the 4th district police station to the theft and robbery police station. It is reported that at the former they were organizing a revolt and were taken out of the cell. They were allegedly handcuffed with their hands behind their back and beaten with pieces of wood and rubber on the head, eyes and back and kicked for two and a half hours by a *delegado* and six or seven police officers.

124. **Eder Fabio da Marciano**, was allegedly beaten over the head with a chair in the theft and robbery *delegacia* of Belo Horizonte. It is reported that as a result of the beatings he is now mentally disabled and has vision trouble. At the time of the visit (3 September 2000), it was obvious to the Special Rapporteur that Eder Fabio da Marciano had lost his faculties and that his life would have been in danger had his co-inmates not cared for him. According to the information received, a witness saw police officers interviewing him on 23 August 2000 and hitting his head numerous times with a chair until it broke.

125. **André Luis Alvez Caetano** was reportedly arrested in August 2000 by five military police officers, taken to a dark street and beaten with wooden nightsticks for more than an hour. It is reported that he was later taken to the theft and robbery police station where he was allegedly kept in a small room on the first floor. It is believed that there he was beaten by five police officers until he signed a confession. He was allegedly hit on the leg with a piece of metal, and punched and slapped while forced to stand up handcuffed for two hours. As a result he reportedly lost a tooth. It is believed that he was beaten until he confessed.

126. **Leandro Barbosa da Chagas** was reportedly beaten for three hours along with other detainees on 1 September 2000 at the vehicle theft and robbery *delegacia*. According to the information received, four police officers entered cell 1, handcuffed detainees and beat their hands, ribs and heads.

127. **José Carlos da Costa Lagos** was reportedly arrested in the street on 30 July 2000 by military police. According to the information received, the police set a dog on him, put a plastic bag over his head, hit him with sticks and kicked and punched him for about three and a half hours. He was allegedly taken to the hospital, to a *delegacia* and later to the vehicle theft and robbery *delegacia*.

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128. **Fabício José de Souza** and **Neliton José Serrão Furtado** were allegedly arrested by six military police officers on 9 March 2000 in Belém. They were reportedly handcuffed and punched in the abdomen and the eyes. They were allegedly taken to a distant neighbourhood and beaten on the way. They were handcuffed together, and then the police officers reportedly aimed a gun at them and pulled the trigger six times, playing “Russian roulette”. They were allegedly released the following day. The military police *corregedor* was reportedly informed about the incident.

129. **A.T.J.M., G.A.P.S.** and **T.S.J.**, three minors, were allegedly arrested on 16 March 2000 in Belém under suspicion of having stolen a shirt. They were reportedly taken to a military police box, where they were reportedly beaten. The mother of one of them reportedly saw the officers hitting the boy and asked them to stop. They allegedly gave her a broomstick and told her to hit him as well. When she refused, they reportedly hit her over the head with the broomstick and punched her. She was allegedly verbally insulted and taken out of the police box. She was reportedly threatened with death if she told anyone about the incident. The Office of the Public Prosecutor, the Military Internal Affairs Division and the Police Ombudsman were reportedly informed about the case. The *corregedoria* of the military police allegedly concluded that there was not enough evidence of a transgression by the officers.

130. **E.M.B.**, aged 16, and another minor were allegedly arrested on suspicion of robbery by military police officers on 20 June 2000 in Belém. E.M.B. was reportedly taken to a forest area and beaten. He was allegedly held in custody for ten hours, and later taken to his grandmother’s house. As a result of the beating, he reportedly vomited and sustained severe bruising. According to the information received, the police officers had told his grandmother that he was a “bum” and asked her for 15 million reais to release him. When she refused, the boy was allegedly taken to the Regional Police Station in Pedreira (*Secciona da Pedreira*). The following day he was allegedly transferred to a Child and Adolescent’s Unit. The case is said to have been reported to the *corregedoria* and *ouvidoria* of the military police.

131. **Paulo Sérgio da Silva Costa** was allegedly arrested by civil police officers on 6 September 2000, accused of vagrancy. He was reportedly taken to the police station of Terra Firma in Belém. According to the information received, he was kept in a cell where he was beaten by an officer in the presence of the police chief, who eventually told the officer to stop. The following day he was reportedly transferred to the police station of São Braz where he was allegedly beaten by two civil police officers. On 21 September, he allegedly underwent an official medical examination. The Office of the Public Prosecutor is said to have been informed about the incident.

132. **Adroaldo Araújo**, an agricultural worker, was allegedly involved in a fight with another man and was injured by a knife. He was reportedly arrested by military police officers, handcuffed and taken to the police station of São Félix. His wounds were said to have been deep, but his request for medical assistance was allegedly denied. He reportedly died the next day at the police station. In April 2000, an official inquiry was allegedly opened and, according to the information received, a sergeant and a nurse were reportedly indicted for not allowing him access to medical help.

133. **Gilmar de Souza Lima, Aderesvaldo Rodrigues de Souza and Jaivan Vieria Reis** were allegedly arrested and beaten by civil police officers in 1996 in Rio Maria. They reportedly underwent an official medical examination which is said to have registered lesions consistent with their allegations. According to official police information, the official medical examination performed did not register any lesions. The police reportedly opened a police inquiry, and a police chief is said to have stated that the teenagers had spent one day in detention. It is believed that public prosecutors did not indict the civil police officers.

134. **H.S.G.**, aged 16, **A.S.O.**, aged 15, and **J.S. da S.O.**, aged 12, were allegedly arrested by a civil police officer in 1999 in Conceição do Araguaia on suspicion of theft of a bicycle, and beaten with a piece of wood inside a police station. They are said to have undergone an official medical examination but no police inquiry was reportedly opened due to fear of retaliation by the officers. According to the official police information, two military police officers were indicted.

135. **A.R.S.**, aged 14, was reportedly working when he was arrested by a civil police officer in Conceição do Araguaia in 2000 on suspicion of robbery. Subsequently, he was said to have been taken to a police station and to the place where he had allegedly committed the theft. According to the information received, **Webson Gama Barros**, aged 19, was also taken to the same place. They were reportedly beaten by a civil police officer and by the teenager's employer. They are said to have been taken back to the police station where they were reportedly beaten again. A police officer is reported to have broken one of Webson's teeth. A police officer allegedly pointed a gun at A.R.S.'s head and threatened him with death. The case is said to be under investigation by the Office of the Public Prosecutor in Conceição do Araguaia.

136. **Paulo Dantas Leal** and another man were allegedly arrested on 26 December 1997 in Redenção by military police officers for driving a stolen vehicle. They were reportedly taken to the 7th military police battalion and to the local civil police station. According to the information received, Paulo Dantas Leal was taken to a room and beaten for almost two hours, as a result of which he reportedly died. The public prosecutor is said to have indicted four police officers and the police chief. Three of them are said still to be working at the Xinguara police station.

137. **Raimundo Milhomen Melo**, a barber, was allegedly arrested by civil police officers on 13 November 1999 on suspicion of robbery. He was reportedly taken to the civil police regional pre-trial detention centre in Marabá and later transferred to the police station in Curianópolis. According to the information received, he was severely beaten by the police chief and another police officer in a room at the station for two hours. When he was reportedly taken back to his cell, a witness allegedly saw bruises on his body. It is reported that his wrists bled and that he was shaking. A judicial inquiry was allegedly opened on 27 April 2000. According to the information received, the *ouvidor* of the police and the *corregedor* of the military and civil police were informed about the incident.

138. **Gedeon Costa Borges**, a driver, was reportedly arrested on 11 November 1999 and taken to the police station in Curianópolis where was allegedly severely beaten by three police officers, including the police chief. The officers are said to have placed a plastic bag over his head and to have tried to suffocate him. He was reportedly submitted to electro-shocks to his genitals and his toes. The police officers allegedly placed a heavy book on his head and hit his head with a

wooden stick. The police chief reportedly placed a gun inside his mouth and told him to bite on it. It is believed that he broke his dentures. He is said to have been threatened with a gun and to have fainted from the beatings. A judicial inquiry has reportedly been opened.

139. **Renato Ferreira Sampaio** was allegedly arrested by military police officers on 15 November 1999 in Marabá on suspicion of attempted theft. He was reportedly taken to a military police box where he was allegedly kept in a room. He was said to have been punched and kicked for half an hour on the orders of a lieutenant. He is reported to have later been taken to the 4th military police battalion, where he was allegedly hit with clubs. He was reportedly taken back to the pre-trial detention centre of Marabá, where he was allegedly threatened with more beatings unless he signed a confession. He was reportedly released on the following day. A police inquiry is said to have been opened.

140. **Raimunda Francisca Santos Aguiar's** house in Belém was allegedly invaded by military police officers on 26 February 2000, who were reportedly searching for her son. When she did not tell them his whereabouts, they allegedly slapped her head, pushed her and threatened her with death, and destroyed her furniture. The commander allegedly pointed a gun at her 5-year-old son and threatened to shoot him. The police officers reportedly took **Adilson Santos Aguiar**, her 20-year-old son, away in their vehicle to an isolated area. He was allegedly held under water by the officers and continuously beaten in order to make him reveal his brother's address. He was reportedly taken to the police station of Jurunas and to the "*Seccional da Cremação*" and released the following day. The *ouvidoria* and the *corregedor* of the military police are said to have been informed about the incident. An investigation reportedly concluded that there was not enough evidence of the officers' alleged transgression.

141. **Reginaldo Rayol da Silva** was allegedly arrested by a civil police officer on 25 January 2000 in Belém. He was reportedly forced to enter a taxi, slapped on the face and threatened with a gun to reveal who had committed a robbery some days before. Two private vehicles with five civil police officers inside allegedly arrived. It is said that Reginaldo Rayol da Silva was masked with his own shirt and put inside one of the cars where he was allegedly slapped on the face and punched in the ribs. He was reportedly taken to a building outside the city, where he was said to have been beaten and held under a tap until he almost suffocated. He was allegedly threatened with death with five guns pointing at his head and neck. Later on the same day, he was reportedly taken to the police station of Guamá where he was processed as if he had been caught in flagrante delicto. According to the information received, on 26 January 2000 he was transferred to Susbras, where he remained imprisoned until 18 February 2000. The *ouvidor* of the police and the *corregedoria* of the civil police were reportedly informed about the incident.

142. **G.C.N.R.**, aged 16, was allegedly arrested by military police officers on 7 March 2000 in Mosqueiro and taken to the Mosqueiro police station. He was reportedly severely beaten during his arrest. The following day, he allegedly ran away. As a result of the beating, he reportedly lost a lot of blood. Ten days later he was taken to a doctor and transferred to a hospital where he is said to have died the following day. The autopsy reportedly concluded that he had died from a haemorrhage produced by skull trauma. A judicial inquiry has reportedly been opened.

143. **Antônio José da Silva** was allegedly arrested by three military police officers on 7 May 2000 in Uruará. He had reportedly been involved in a fight with a number of teenagers on that day and was allegedly taken to the local police station where he is said to have been severely beaten. He was reportedly released on the same day. He was allegedly taken to a hospital later on that day where he died. His dead body was reportedly taken home by his relatives who allegedly saw that his back was covered with red spots. Their request that doctors examine the body was reportedly denied. According to the information received, the *corregedoria* of the military police was informed about the death and opened an investigation that reportedly concluded that there was no indication of a crime (*indício de crime*), but only a “disciplinary transgression” committed by the police officers. According to the information received, the officers involved in the incident were punished with four days of detention. The *ouvidor* of the police is said to have been informed about the incident.

144. **D.C.C.**, aged 12, and **R.F.da S.**, aged 13, were allegedly approached by military police officers at their school on 9 March 2000 on suspicion of having stolen a wallet. They are said to have been slapped and punched in the face and on the hands and to have been verbally insulted by the officers. The boys were reportedly taken to the police station in São João Pirabas and then two police officers and the alleged owner of the wallet reportedly took them to a vacant lot and beat them. According to the information received, D.C.C. was hit with a gun butt on the head and R. F. da S. was punched in the face with a handcuff. They were reportedly kept in a car for four hours before being returned to their parents. D.C.C. is believed to feel constantly dizzy as a result of the beatings and to be afraid to go to school because of the officers’ alleged threats. The *ouvidor* and the *corregedoria* of the civil police were allegedly informed about the incident.

145. **Adilson Vieira** was allegedly arrested by civil police officers on suspicion of theft and murder and taken to the Cabanagem police station. He was reportedly later transferred to the police station in Abaetetuba. On 28 December 1999, he was allegedly beaten and had salt rubbed onto his body. He reportedly had his arms and feet handcuffed to the cell bars and had to keep standing for hours. During the night, his waist was also said to have been tied to the bars. The Office of the Public Prosecutor and the police *ouvidor* were reportedly informed about the case.

146. **W. dos S.S.**, aged 15, was reportedly caught by the police on 7 June 1999 in Xinguara and taken to a deserted location where he is believed to have been kicked in his legs, chest, back and genital area. He was allegedly handcuffed and threatened with death. A small amount of marijuana was reportedly found among his possessions. According to the information received, he told the police the name of the person who had given the substance to him. The policemen reportedly found the other boy and took both of them to the Xinguara civil police station. W. dos S. S. was reportedly kept handcuffed in a small room and beaten by police officers who punched and kicked various parts of his body and hit him on the neck and head with a gun butt. He was reportedly taken to a cell. Later that day he saw that the other boy had a bloodied face and a broken tooth due to alleged beatings. According to the information received, he was detained for three days in the police station, during which he was reportedly beaten several times and threatened with death. He received no food, water or medical assistance. His mother and lawyer were allegedly not allowed to see him. After his release he is said to have been taken to a clinic. The doctor reportedly concluded, in a report dated 21 July, that he suffered from post-traumatic stress disorder. It is reported that he remained hospitalized for nine months and that he

has received psychiatric treatment. An inquiry was allegedly opened. One of the officers who imprisoned and beat him had already allegedly been indicted for beating to death another prisoner two years earlier. The police chief involved in the incident has reportedly been promoted. The Special Rapporteur notes that he sent an urgent appeal on behalf of W. dos S.S. and his mother on 15 December 2000 (see E/CN.4/2000/66, para. 190) and on 19 January 2001. At the time of the last urgent appeal, they were said to have been followed by one of his alleged torturers while receiving medical treatment in Belém.

147. **Fábio Campos Queiroz**, aged 18, was allegedly detained and tortured by two police officers along with W. dos S.S. (see above), between 7 and 9 June 1999 at the police station in Xinguara. He was allegedly taken to a bridge where he was hit with a rifle butt, in particular on the face, and his head was allegedly slammed against the car. It is believed that the *delegado* did not intervene to stop the beatings at the police station, even when he was covered with blood. According to the information received, after the incident he could not walk for five days. He is said to have been constantly threatened by the two police officers who allegedly beat him. In July 1999, one of them reportedly offered him a gun and money if he would testify in their favour in court. He is believed to have refused, and went into hiding from the officers. It is reported that on August 2000, his nephew was threatened with death by the officers in order to discover his whereabouts.

148. **J.A.R.**, a 14-year-old maid, was allegedly beaten by two civil police officers on 25 September 1998 in Redenção. According to the information received, she was accused of having stolen from her employers and the officers reportedly wanted to extract a confession from her. They allegedly beat her hands and buttocks with a wooden stick. It is said that she was burned with cigarettes. The officers reportedly left and her employers and two other employees allegedly kept beating her. Her employers beat her with a wooden stick and threatened to douse her with petrol and set her on fire. The two employees allegedly pointed a gun at her and threatened her with death throughout the night. During the following morning, police officers in plain clothes reportedly beat her again. They allegedly stopped when she accused someone else. The Redenção Guardianship Council was reportedly informed and forwarded the case to the Office of the Public Prosecutor. According to official police information, the case is not registered at the Conceição do Araguaia police station. No police inquiry or other official investigation is said to have been opened about the incident.

149. **C. de M.R.**, aged 14, **M.C.A.**, aged 16, **N. da S.S.**, aged 17, were allegedly arrested by two civil police officers on 21 July 1997 in Redenção, on suspicion of robbery. They were reportedly subjected to electro-shocks and beaten on the head and buttocks. The Redenção Guardianship Council is said to have informed and forwarded the case to the Office of the Public Prosecutor on 4 August 1997. According to the information received, an official police inquiry was opened on 13 October 1997 under the supervision of the chief of the police station in Redenção, who reportedly had been previously indicted by a public prosecutor for the crime of torture. According to the information received, the officers have not been punished and one of them is said to be still working at the same station. On 18 November 1997, N da S S was allegedly rearrested in Redenção by three police officers. According to the information received, the officers kicked and punched him on his head, torso and other parts of his body. The following day, his mother reportedly told the Guardianship Council about the alleged beating

and the boy reportedly underwent an official medical examination. No police inquiry or other official investigation are said to have been opened concerning the second arrest.

150. **Adão Pereira**, an agricultural worker, reportedly died on 26 May 1993 as a result of having been tortured for a whole night by civil and military police officers at the São Félix police station in Xingu. It is reported that there were three witnesses to the case, and that a judicial inquiry has been opened. Proceedings are said to have reached a standstill. A police officer and a chief of police were reportedly indicted, but have not been punished.

151. **Osório Barbosa Barros**, an agricultural worker, was reportedly arrested by civil police officers on 8 September 1993 on suspicion of murder. According to the information received, he was taken to the police station in Xinguara where he is said to have been given electro-shocks and to have been suffocated and beaten for five days.

152. **Edilson Barbosa de Oliveria**, a haemophiliac, was allegedly beaten by a military police officer on 12 July 1998 in a military police box in Rio Maria. He reportedly went into hospital for four days. Military police officers are said to have been indicted.

153. **L.R. da L.**, aged 16, and **E**, aged 14, were reportedly beaten and taken to a police station by military police in Rio de Maria on 14 June 1998 after the sister of L.R. da L. allegedly called the police because they would not turn their music off. Once released, they were allegedly threatened not to tell anyone about the incident. According to the police, there is no report about the incident at the police station in Rio de Maria.

154. **L.**, aged 16, was allegedly arrested by military police officers on December 1999 in Rio Maria on suspicion of theft. He was reportedly taken to a police station where he was allegedly punched and kicked in the face and ribs. According to the information received, he was imprisoned for several hours and later released as a result of action by the Guardianship Council. The Office of the Public Prosecutor has allegedly been informed about the case and is said to be investigating. It is believed that the police officer accused of involvement in the accident have not been punished or reprimanded.

155. **F.P.C.**, aged 14, was allegedly beaten by a military police officer on 26 April 1998 in Tucumã. His cousin was allegedly playing soccer and got into a fight on the football field. The officers reportedly saw the incident and started to beat everyone involved. When F.P.C. allegedly asked them to stop, an officer reportedly started to beat him up. As a result, he reportedly almost lost consciousness. The Guardianship Council allegedly informed the Office of the Public Prosecutor about the incident. According to the information received, no official inquiry has been opened.

156. **José de Souza Porto** was allegedly beaten by a civil police officer from Redenção on 3 September 1999 during a party in Rio Maria. It is said that while he was being beaten three military police officers arrived and started to beat him as well. According to the information received, he was taken to a police station where he was reportedly kept for 24 hours. The military police are believed to have been informed about the incident. According to the police, the civil police officer who allegedly beat him has been indicted.

157. **Ricardo da Silva**, aged 18, **Manoel da Silva**, aged 26, and **José dos Santos**, aged 22, were allegedly arrested on 15 December 1999 by military police officers and taken to a police station in Rio Maria, where they were reportedly kept for 24 hours and beaten by a civil police officer. According to the police, there is no register of the incident at the Rio de Maria police station.

158. **Elvis Marques Teixeira**, a 21-year-old manual worker, was allegedly punched by two police officers at a party on 8 October 1999 in Marabá. According to the information received, the next day he was reportedly arrested by the two officers. He was allegedly taken to the police station of Morada Nova where he is said to have been beaten by four military police officers and threatened with death with a gun pointed at his head. He allegedly lost four teeth due to the beatings. He was subsequently released. In police custody, he allegedly had no access to a lawyer or any other person. The local media were reportedly informed about the incident and a police inquiry is said to have been opened. According to the information received, since the incident he reportedly has been receiving death threats.

159. **Adalio Martins Queiroz**, a public employee, had reportedly been asked by a friend to inquire about a colleague who had been arrested at a song festival. On 16 March 1998, he allegedly asked two police officers whether they had arrested the woman concerned and then went to the police station in São Geraldo de Araguaia, where he spoke to her. When he left, he reportedly drove past a police car on his motorcycle which flashed its lights at him. When he stopped, the police officers are said to have told him that he was following them and for that reason they were arresting him. He reportedly replied that they could not arrest him, whereupon they allegedly drew a gun and fired at Adaildo Martins Queiroz. Many people were reportedly watching. The police officers argued with Adaildo Martins Queiroz about the machete tied to his motorcycle with which he had been working. The police officers allegedly suggested that they all go to talk to the lieutenant. Thinking that the latter might have some training, Adaildo Martins Queiroz decided to go with the police and got into the police vehicle. The officers are believed to have driven to the police barracks where they called the lieutenant, who had allegedly been at the song festival and was said to have been intoxicated. Having listened to an explanation of the events, the lieutenant and, subsequently, the three other police officers are said to have drawn their weapons and told Adaildo Martins Queiroz to give himself up. He was allegedly handcuffed and punched and one officer reportedly tried to kick him in the genitals and hit him in the side. The officers allegedly hit him several times on the head with a pistol, a revolver and a rifle. They reportedly shot in his direction, and threatened him with death. As a result, he is said to have lost consciousness. He is said then to have been taken to a civil police station, from which he allegedly escaped the same day. The following day, he allegedly reported the incident at another police station. The lieutenant, who is said to have been appointed *delegado* several days after the incident, is said to be turning up at Adaildo Martins Queiroz's place of residence in an intoxicated state. The latter is reportedly subjected to pressure by other officers to change his statement, which he has refused to do. He reportedly underwent two medical examinations, which are said to have registered lesions consistent with his allegations. An inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

160. **Jairo Barros de Araújo** was allegedly beaten by two reportedly drunk policemen in plain clothes in a bar in Marabá on 9 April 2000 while he was discussing the bill with the bar's owner,

who was also said to have been beaten by the police. The above-named person was reportedly taken to a police station where it is reported he was severely punched, kicked and beaten with a *palmatória*. The officers allegedly took his money and watch. He was reportedly released three hours later after being threatened not to say anything about the incident. According to the information received, he underwent a medical examination, which allegedly registered lesions consistent with the allegations. An inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

161. **Hildebrando de Silva Freitas** was allegedly arrested by civil police officers in his bar on 15 November 1997 in Belém. He is said to have been hit on the neck during his transfer to the police station of Telégrafo. His family was reported to have been informed of his arrest immediately. At the police station, he was reportedly beaten, slapped on the face and punched in the kidney region by police officers upon the *delegado*'s orders and thrown into a cell. The *delegado* allegedly threatened that he was going to "become a woman" inside the cell. He was reportedly frightened and tried to run away. The *delegado* reportedly shot in his direction and started to kick his genital area. He was allegedly taken to a special cell, where he was reportedly beaten again by detainees to whom police officers had given iron bars. Some days later, he was reportedly released on bail. He reportedly underwent an official medical examination at the IML which is said to have registered lesions consistent with the allegations. He then reportedly filed a complaint with the *corregedoria* and the *ouvidoria*. It is believed that there has been no substantial investigation by the *corregedoria* while the *ouvidor* has been closely following up the matter. According to the information received, the police claimed that his injuries were self-inflicted. The police have brought forward false witnesses stating that he had paid people to beat him up after he was released from the police station. It is nevertheless believed that less than 30 minutes after his release he was at the IML which recorded injuries as that had not been inflicted recently. A witness to the beatings in the police station is also said to have testified. The police investigation is said to have ignored the statement of this witness. Finally, it is reported that the *delegado* and five police officers were indicted by a public prosecutor in June 2000. An appeal is said to have been immediately filed by the police officers with the State Court of Appeal.

162. **Edilson Feio do Couto** was reportedly arrested by a retired police officer on 18 August 2000 and severely beaten, in particular on his ears (*telefone*), at the Guama police station in Belém. It is reported that he was beaten by the *delegado* with a large wooden stick for forty minutes. He is believed to have stayed there for four days and to have signed a *nota de culpa* after two days after having been beaten every morning and night for about an hour each time. According to the information received, the *delegado* wanted to make him confess to other crimes. At the time of the interview (9 September), he was reported not to have yet been brought before a magistrate. It is believed that he saw a lawyer to whom he complained about the treatment he had allegedly been subjected to. Upon arrival at the police station of São Braz, he was allegedly held in the punishment cell (*forte*) for five days.

163. **Givanildo Silva Lemos**, also called Marabasiño, was reportedly arrested on the morning of 8 September 2000 by members of the civil police in the Praopebas area, Curianópolis, on suspicion of robbery and homicide. It is believed that he was arrested on a judicial order which was said not to have been shown to him at the time of arrest. He was reportedly taken to a local police station where he was allegedly severely beaten by four police officers with a large wooden

board, in particular on the head and back, for approximately two hours. On the same day, at around 9 p.m., he was reportedly taken to the pre-trial detention centre of Marabá, where he was directly taken to the *delegado*'s office. It is believed that he was beaten by two investigators with wooden sticks on the back and head. According to the information received, other policemen, including the *delegado*, witnessed the interrogation and beatings. At some point, the *delegado* is said to have asked his subordinates to keep beating him, but less severely. It is believed that the *delegado* was afraid that he would otherwise die. The two following days, he was asked to sign a prepared *nota de culpa* that he could not read. At the time of the interview (10 September), he bore visible marks, in particular an open wound on his head and large haematomas on the back and arms, consistent with his allegations. He was also afraid of being subjected to reprisals.

164. **Edivaldo Viana Souza** was reportedly arrested on 10 May 2000 at his home in Maraba on suspicion of illegal possession of firearms. It is believed that he was arrested by three civil police officers wearing civilian clothes. He was allegedly beaten and punched at the time of arrest. He was said to have been handcuffed and dragged through the street. The right side of his face was allegedly completely scratched. It is believed that a picture of him consistent with his allegations appeared in a newspaper. At the time of the interview (10 September 2000), scars were still visible on his wrists. He was then taken in a van to the Maraba pre-trial detention centre, where he was allegedly beaten on the right knee with the barrel of a gun by the *delegado* and a police officer. At the time of the interview, a large scar was still visible. He was said to have been asked to sign a confession without knowing what was written in it. He was then reportedly taken to a cell. After 30 days, he was reportedly taken back to the *delegado*'s office where he was reportedly interrogated about some murders which were said to have been committed in 1997, at a time he claims he was not living in the State of Para. He allegedly signed new papers under threat of being beaten again if he did not sign them. It is believed that he saw a lawyer only 60 days after his arrest, when he appeared in front of a magistrate. It is reported that he had already had four hearings and had been charged with murder. Out of fear of reprisal, he reportedly did not complain to the judge about the ill-treatment he was allegedly subjected to.

165. **Antônio Neto da Silva** was reportedly arrested on 6 April 2000 at his home in Cidad Nova, Maraba. It is believed that he was arrested because he was living with a 14-year-old girl whose father accused him of having raped her. He was reportedly arrested by two military police officers, who broke the door of his house and punched him. It is believed that he was put handcuffed in the trunk of a vehicle and taken away. Next to a bridge, the two officers are said to have taken him out of the trunk and to have apologized for his arrest since the girl had reportedly not complained of anything. He was nevertheless taken to the Maraba pre-trial detention centre where he was detained. Since then, he does not know under which procedure he is detained. Early in June 2000, he is believed to have fallen sick, in particular vomiting blood. He was reportedly taken to a hospital where a doctor advised that he should be hospitalized. He was nevertheless only given an injection and taken back, handcuffed and in the trunk of a vehicle, to the detention centre, a two-hour drive. Upon arrival, it is alleged that he was beaten on the chest by a police officer with the butt of a gun. It is believed that police officers wanted him to sleep handcuffed that night. They were reportedly prevented from doing so by the *delegado*-in-charge. According to the information received, he thereafter refused to complain when he was sick for fear of being further ill-treated.

166. **Claudio de Souza Oliveira**, a street seller, was reportedly arrested on 28 March 2000 at his home in Maraba, by two civil police officers and an informer, on suspicion of larceny and possession of marijuana. It is believed that they destroyed everything in his house and that he was beaten and punched during approximately 20 minutes. One officer is said to have stepped on his neck. He was then reportedly taken to the Maraba pre-trial detention centre. During the first night of his detention, at around 3 a.m., he was reportedly taken out of his cell and was asked by a police officer how much he could pay to be released. As he could not pay the sum asked (1,500 reais), he was reportedly threatened with a wooden stick and a leather belt and asked to sign a confession. According to the information received, he complained to the magistrate at the first court hearing of his case about being asked to pay a bribe in order to be released, but did not say anything about the beatings for fear of reprisals.

167. **Deuziel Ribeiro da Silva** was reportedly arrested on 19 October 1999 on a street in Maraba by four military police officers at around 2 p.m., on suspicion of homicide. He was allegedly kicked and punched at the time of arrest. He was also allegedly beaten with the butt of a gun. During his transfer to the crime scene, he was said to have been threatened. At the scene, he was allegedly interrogated and beaten for half an hour. He was then reportedly taken to the Ciudad Nova police station, where he stayed for one night. He was then reportedly taken to the Maraba pre-trial detention centre, where he was forced to sign a confession under threat of being beaten. At no point was he given access to a lawyer. At the second hearing of his case, he is believed to have complained about the beatings to the judge, who is said to have indicated that he would take action. At the time of the interview (10 September 2000), he still bore marks, in particular scars on the arms and chest, consistent with his allegations.

168. **Fabio Tavares da Silva, Rilton de Silva Soares and Amadeu Almeida Pemental** were reportedly sleeping at the house of a friend, who had invited them to stay with him after participating in a political rally the night before, 7 September 2000. Six or seven military police officers reportedly arrived at the house and broke down the front door at 7 a.m. on 8 September, reportedly waking them up by punching them and then beating them on the head, neck and face for several minutes. A police officer is said to have pointed a gun at them. Another police officer is said to have beaten them on the stomach and back with his belt, whilst questioning them about a gun belonging to the owner of the house. They were all handcuffed very tightly, as a result of which Fabio Tavares da Silva reportedly sustained swollen hands and scratches to his wrists; the handcuffs on the other two were reportedly loosened. A policeman is said to have placed a pistol to their kneecaps stating that they would have to tell him who the gun belonged to. They are said to have responded that it was not theirs. The police allegedly placed soda on them, stating that it was drugs. They were subsequently transferred to the Guama police station - Fabio Tavares da Silva in his underwear - where they were reportedly taken into the yard, beaten for 10 minutes and reportedly had soap rubbed into their eyes. They were then reportedly asked for 3,000 reais to be released. The police are said to have threatened the three detainees with calling in "heavy artillery" if they did not talk. They are also said to have let the media enter to film them. At the time of the interview (8 September 2000), marks consistent with their allegations, such as a scar to the mouth, scars to the lower legs and swellings on the hands, were still visible, and Fabio Tavares da Silva was still in his underwear.

169. **José Ricardo Vianna Gomez and Marcio Furtado Correia Paiva** were reportedly arrested by three military police officers on 5 or 6 September 2000, at which time they were

allegedly beaten. They were said to have been brought to a military police box in Terra Firma, where they and another person, **Valdi Aleixo Barata**, were beaten again whilst handcuffed. In the military box, José Ricardo Vianna Gomez was reportedly beaten by two military police officers with a *palmatorio* with a hole in the middle. An officer reportedly put a weapon against his head, stating that he would kill him. They were said to have subsequently been thrown into a police van and to have been transferred to the Terra Firma district police station, where José Ricardo Vianna Gomez was reportedly forced to sign a confession for armed robbery. He had reportedly stated that he did not possess a weapon, so a knife was said to have been placed on him. The next morning they were said to have been transferred to the district police station of São Bráz. Both had been said not to have received any medical treatment, despite a request for it. At the time of the interview (9 September 2000), marks consistent with their allegation, such as a rounded haematoma on the left upper leg of José Ricardo Vianna Gomez, haematomas on Marcio Furtado Correia Paiva's left upper arm, an inflamed and swollen scar 1 to 2 centimetres in length on his head, and marks on Valdi Aleixo Barata's right back, shoulder and arms, were still visible. On the same day, the Special Rapporteur found a *palmatorio* with a hole in the middle in the Terra Firma military police box, on which was inscribed "Tiazinha, chega-te a mim" (snuggle up to me) and "Agora me dan medo" (now I am afraid), consistent in its description with that given by the persons named above.

170. **Joel dos Santos Rocha** was reportedly arrested on 5 September 2000 during his participation in a political rally. He was said to have been in a fight with members of a political party. Police officers reportedly arrived, beat him and gave him electric shocks in the street. As a result of the beatings, he is said to be suffering from injuries to his left arm, bruises on the two little fingers of his left hand and his eyes, scabs on both his knees and a painful nose.

171. **Manuel Ramod Amarujo** was reportedly shot twice by police officers in the right side of his chest when he was driving his car in February 2000. He was stopped by a team of police officers from Maraba, including the *delegado*, and subsequently beaten. Two other persons were said to have been killed, one of them allegedly executed at point blank. In detention he was not provided with any medical treatment despite his request. The police are said to have replied that he could die.

172. **Marcos Fábio Costa do Souza** was reportedly arrested in Maraba in May 2000 by three civil police officers, amongst them a *delegado* and an investigator. The police officers reportedly placed a plastic bag over his head, inducing a feeling of suffocation to force him to confess to the accusation of having accepted money in the Jaconda police station. He is believed to have been beaten with a big iron bar, the bumper of a truck, on all parts of his body. As a result, his left arm was reportedly dislocated. Over three days, he was said to have been forced to eat salt and drink ethanol in huge quantities. Six days later, he was said to have been visited by his lawyer, who requested his transfer. When he asked for medical treatment, he was allegedly told that a doctor was not available. Marcos Fábio Costa do Souza reportedly underwent a medical examination at the Forensic Medical Institute only 15 days later.

173. **Marcelo Paixas Azeredo** was reportedly arrested in Maraba on 8 May 2000 by civil police officers, amongst them a *delegado*, who are said to have taken him to a farm, where they placed a plastic bag over his head. He was subsequently allegedly beaten with iron bars and wooden sticks on the left side of his body and given electric shocks to his armpits. The officers are said

to have fired shots next to him in order to extract a confession. He was subsequently taken to a *delegacia*, where he was allegedly beaten again. As a result, he is said to have subsequently signed a prepared confession to homicide.

174. **Cledilson Marcos Rodrigues** was reportedly arrested on 28 May 2000 on an avenue in Maraba by five military police officers, including a lieutenant, who are said to have taken him to a forest, where they are said to have beaten him for two and a half hours with a wooden stick and belts. He was subsequently transferred to the Maraba pre-trial detention centre, where he was reportedly beaten for another half an hour. As a result of the beating, he is said to have signed a confession to stealing a television set. The *delegado* had reportedly stated that there was no evidence against Cledilson Marcos. When his father visited him, he was reportedly pushed against the wall. Cledilson Marcos Rodrigues was then allegedly taken to the Forensic Medical Institute (IML) where he reportedly received no proper medical examination. The doctor is said to have asked him what had happened to him. Cledilson Marcos Rodrigues reportedly told him that he had been beaten, whereupon the military police officers intervened and stated that he had slipped. The doctor is also said to have warned him not to tell his story. The military police are said to have invited the press to the prison in order to portray him as a culprit. He is also said to have been threatened with death upon his release. At the time of the interview (10 September 2000), marks consistent with his allegation, such as marks on his back and on his left wrist, were still visible.

175. **Adewilson Ferreira dos Santos** was reportedly arrested on suspicion of having stolen a video cassette and taken to the police headquarters in Maraba in March 2000. There he was said to have been taken to a room where he was reportedly given electric shocks by two civil police investigators, a prison guard and the police *delegado*. The prison guard reportedly hit Adewilson Ferreira dos Santos's head against the bars of the door, as a result of which he is said to have fainted. He reportedly required stitches over his left eye. The *delegado* is said to have told him that if he signed a confession he would be taken to the IML. He reportedly signed fabricated evidence of having been caught in the act. He was reportedly taken to the IML at a later stage, however he allegedly never received a copy of his medical report. At the time of the interview (10 September 2000), marks consistent with his allegation, such as a scar over his left eye, were still visible.

176. **José Lúcio dos Santos Arcanjo** was reportedly arrested in Marabá on a preventive arrest warrant on 21 May 2000 on suspicion of homicide. He is said to have been placed in a cell in the police headquarters in Marabá. Around 26 May, he was reportedly taken out of his cell at 3 a.m., handcuffed and brought to the office of the regional *Delegado*. There, he was reportedly threatened with being beaten if he did not sign a confession and is said to have had a knife pointed at his stomach.

177. **Wagner Bispo dos Santos** was reportedly arrested without a judicial warrant on 10 January 2000 in Marabá by civil police officers, including the *delegado*, who are said to have wanted to find out about a mugging. They reportedly beat him across his back with the *delegado's* chair and pointed a gun at him. Wagner Bispo dos Santos told them that he was innocent and did not sign.

178. **Paulo Alves Ferreira**, who was said to have been accused of having stolen a stereo system, was reportedly severely beaten up in the Marabá pre-trial detention centre around 17 July 2000 in order to make him confess to a number of burglaries. He allegedly stated that he was not involved, but signed a confession as a result of the beatings. The officers involved reportedly hit him on the chest with a revolver and pointed a gun at his head. The *delegado* reportedly said to him that he was “worth nothing”. When he requested a medical examination, he was reportedly denied medical treatment.

179. **Six detainees** were reportedly placed naked in a very damp and filthy punishment cell for 24 hours around 26 August 2000 at the pre-trial detention centre in Marabá. At 3 a.m., drunken police officers are said to have come with the *delegado* and to have threatened the detainees. They reportedly pointed a machine gun at them and prepared the trigger. They allegedly said that if the detainees made any noise, they would toss a home-made bomb into the cell.

State of Paraíba

180. **José Edison Dias**, a 31-year-old physically and mentally disabled fisherman, was reportedly arrested on 8 December 1998 in São Miguel by the military police under suspicion of sexual abuse. According to the information received, he was taken to the local police station and was beaten by the local police chief and two police officers. The police chief reportedly stepped on his chest, crushing his thorax. The two police officers allegedly placed an automobile tyre on his chest and jumped on the tyre. It is reported that the officers ordered him to get up and enter a cell. When he did not get up, he was said to have been dragged to a cell and doused with cold water. The following day the police chief reportedly beat him again. He was allegedly kept in custody for three days without receiving any food. On the morning of 10 December 1998, he was taken to a clinic where doctors examined him for the first time since his arrest. He was reportedly released after the doctors' examination. On the night of the same day, he is said to have returned to the clinic where he received oxygen and medication. According to the information received, he died on 11 December 1998. His body was reportedly taken to a clinic and afterwards to the Police Forensic Medical Institute (IML). It is reported that, according to an autopsy performed by the official medical examiner, he died of bronchial pneumonia and a gastric ulcer not related to the alleged beatings he had suffered. The Commission of Human Rights of the Brazilian Bar Association, a public prosecutor and his parents are reported to have requested the exhumation of his remains. According to the information received, the Forensic Medical Institute of Veloso de Franca and the Forensic Medical Institute of Paraíba State performed an autopsy on 23 January 1999, concluding that his death resulted from profound trauma to his thorax and abdomen and not from bronchial pneumonia as the initial autopsy had concluded. On 3 February 1999, the public prosecutor of Rio Grande Norte State indicted two police officers.

181. **Evandro Coelho Domingos**, a 22-year-old car washer, was reportedly picked up by military policemen in two police cars in João Pessoa on 8 May 2000 on the accusation of having used “Royphinol”. He is reported to have been handcuffed and brought to a nearby beach, where he was allegedly beaten up by eight policemen, burned with the car exhaust pipe and thrown against a fence. The policemen also allegedly stole his personal belongings.

182. **José Leandro Correia**, a 51-year-old plumber, was reportedly arrested by the police and taken to the 1st district police station in João Pessoa on 24 January 1997. It is reported that he was found dead some hours later. According to the information received, the first investigation report recorded natural death, however a second one concluded that his death was caused by multiple trauma.

183. **José Gonçalves**, detained at the Róger prison in João Pessoa, was allegedly beaten by police officers on 11 March 2000. As a result he reportedly needed 12 stitches to his head. Several other prisoners, including **Neco, Bindo** and **Veinho**, were also reportedly beaten by police officers after an attempt to break out of the prison.

184. **Adriana Gomes de Sousa**, a 24-year-old woman, was allegedly arrested by two military police officers on 29 July 2000 in Cajazeiras. She was reportedly taken to the 6th Battalion headquarters. According to the information received, she was beaten, kicked and almost suffocated with a plastic bag around her head for about four hours. She is said to have fainted four times. She was reportedly threatened with death not to speak about the incident and transferred to a police station, where she was allegedly kept for a further 24 hours before being released. A judicial inquiry was reportedly opened and four police officers involved have allegedly been identified.

185. **Adalberto Simões da Silva, Roberval Valdevino dos Santos, João Viana de Brito, Luciano Ferreira da Silva, Valdecir Alves da Silva, Otoniel Vicente da Silva, Jair Francisco da Silva, José Edmilson Balbino da Silva, José Roberto da Conceição, Luiz Ferreira Neto, Antônio Tertuliano Sales, Edielson Barbosa de Lima, Ivanildo Batista da Silva, Jadiel Pinto da Silva, João Batista Souza da Silva, José Batista da Silva, José Hildo Pinheiro Leite, Valdério do Rego, José Irenaldo Pereira do Nascimento, Alex Sandro Santos da Nóbrega, Antônio Gomes Ferreira de Araújo, Elias Fernandes dos Santos, Edilson Santos Barbalho** and **Luiz Ferreira da Silva**, detained at the Silvio Porto Penal Prison in João Pessoa, were reportedly beaten by 30 to 40 police officers on 12 July 2000. The officers, some of whom were allegedly masked, reportedly used wooden sticks, baseball bats, clubs and guns to beat them and allegedly shot into the air several times. Prisoners were also allegedly verbally abused. It is believed that an attempted break-out occurred on 7 July 2000 and the police officers were searching for the tools used. A judge reportedly visited the prison and photographed the detainees' bodies and tape recorded their reports about the incident. According to the information received, there are witnesses to the case. The detainees are said to have constantly been threatened by the prison guards not to comment about the incident. An inquiry was allegedly opened on 14 July 2000 and three prisoners with less severe beating marks than the others reportedly underwent an official medical examination on 15 July 2000.

State of Paraná

186. **Valdir José Chamoskovisk**, a detainee at the Central Prison of Piraquara, also known as "General", has reportedly been kept for seven years in an isolation cell and has only very recently been allowed to be visited by a doctor. He is reported to be suffering from mental illness. He was reportedly sentenced to 18 years' imprisonment.

187. **Valdecir Bordignon, Lorival Lesse and Aristide dos Santos Lisboa**, agricultural workers, were among a group of 30 families that reportedly occupied a farm in Paraná on 26 April 1999. On 29 April, two court officials, some 10 officers from the civil police Special Operation Group wearing black vests and masks, two plain clothes civil police officers and 20 military police officers arrived at the farm with a court order requiring the families to leave. The workers reportedly intended to leave the area right away, but the police officers allegedly barred them from doing so and forced them to sit in the sun for five hours. They are also said to have verbally abused the workers, to have threatened to beat them and to rape the women. Four police officers reportedly took Valdecir Bordignon away and handcuffed, kicked and punched him. He was allegedly beaten with clubs and his head submerged in the cattle's drinking pool. Officers are said to have interrogated him about the leadership of the landless movement (*movimento dos sem terra*, MST). He allegedly answered that he did not know. He was then reportedly dunked eight times, finally losing consciousness. He was allegedly pushed onto the ground and then woken up. Officers reportedly stepped on his neck, and threatened to "impale" him with a stalk of sugar cane. He was then allegedly forced to kneel and, with a knife and a gun held to his neck, forced to eat half a kilo of cattle manure. According to the information received, after two and a half hours of torture, he was reportedly forced to sign the court order. According to the information received, he was taken with other farm workers to the Ortigueira police station where they allegedly reported the incident to a judge. The latter reportedly registered the case as an arrest in flagrante delicto and ordered them detained. They allegedly underwent an official medical examination on the same day. It is reported that the medical report registered lesions consistent with the allegations. They were reportedly taken back to the police station, where they reportedly remained for four days. They were later transferred to the Ponta Grossa jail, where they allegedly remained for about 38 days. Military police officers are said to have constantly threatened to rape their wives and to kill them when the prison guards were absent. On 3 May, Valdecir Bordignon allegedly underwent another official medical examination which was reportedly signed by a doctor who had not seen him. An inquiry has allegedly been opened. Lorival Lesse was allegedly handcuffed by four police officers and submerged in the cattle pool about 10 times, and forced to drink some of the water. He was said to have been held by his feet by one police officer while another one choked him with a rope. He was reportedly told to undress. It is said that the police officers threatened to impale him with a stalk of sugar cane. The police officers reportedly beat him for about an hour. It is reported that they threatened him and pointed a gun at his neck and ear. According to the information received, he said he did not know the information requested and was threatened with a knife at his neck. Aristide dos Santos Lisboa was allegedly taken behind a farm building and interrogated. He was reportedly verbally abused, pushed onto the floor, and threatened with death with a weapon pointing at him. An officer reportedly hung him by his feet while another put a rope around his neck and attempted to hang him. He was reportedly tortured for an hour.

188. **Geraldo José dos Santos**, an illiterate agricultural worker, was allegedly a member of a group that occupied a farm in Santa Cruz de Monte Castelo. On 7 May 1999, at 1.30 a.m., several military police officers and officers from the civil police Special Operations Group, some of them wearing masks, allegedly arrived at the farm and started to shoot and to throw explosives at the camp, destroying the huts which the farm workers had erected. Geraldo José dos Santos was reportedly kicked in the ribs and fell on the floor. Twenty-four workers from the MST were reportedly forced to lie on the ground where they reportedly remained for several hours. The officers allegedly made their dogs lick the workers' mouths. Some of the workers reportedly

were injured by the explosives. The officers allegedly took money from a number of workers. According to the information received, the above-named person was taken to hospital. As a result of the incident, he reportedly urinated blood for several days. An inquiry has allegedly been opened.

State of Pernambuco

189. **Saul Limeira Barbosa** was reportedly arrested by eight police officers on 23 March 1999 in Recife, taken to the Jardim São Paulo police station and kept naked in a cell. He is said to have been beaten with a piece of rubber by two police officers in order to make him disclose his sister's location. He was reportedly released on the following day. He is said to have undergone an official medical examination which reportedly registered lesions on his body.

190. **Sebastião Freire dos Santos Filho**, a taxi driver, was reportedly beaten up by three civil policemen from the theft and robbery police station of Recife in front of his house on 11 January 2000. He is said not to have received any medical treatment. The case has reportedly been passed on to the appropriate authorities.

191. **Sergio Eduardo Pereira Camargo**, aged 28, was reportedly arrested by three military police officers in a bar in Recife in August 1998 on suspicion of armed robbery. According to the information received, his father was immediately informed of his arrest. He was taken to the Bon Viagem police station and the following day to the theft and robbery police station without his family being informed. On 17 August, he was reportedly taken to the Piedad police station where he was stripped naked and left in a cell into which water had been poured. He was reportedly interrogated at night. During interrogation, he was allegedly made to lie on the ground, his hands tied with rubber. His face was allegedly covered with a plastic bag and he was sexually abused with a dildo. It is believed that wires were connected to the dildo and that he was electro-shocked. He was allegedly suffocated with a plastic bag and beaten, in particular on the eyes. As a result, it is believed that the vision in his left eye has been seriously damaged. His father was reportedly not allowed to see him privately. On 20 August, his father is said to have been told by a police officer that his son had confessed to the crime. It is believed that he was not allowed to be assisted by a lawyer when he first appeared in court. A few days later, it is reported that he was transferred to Anibal Bruno prison. On 23 September 1999, he was reportedly sentenced to 29 years' imprisonment. His torture allegations are said to have been ignored by the judge. He is said to have filed an appeal on the ground that his confession on the basis which he was found guilty of armed robbery had been extracted under torture. According to the information received, he never received any medical attention. No complaint has been filed with the *corregedoria* as his family believed that this would be to no avail.

192. **Giovane da Silva** was reportedly arrested on 16 August 2000 after having escaped from a semi-confined place of detention in Recife. He is believed to have been taken to a police station where he was given a *nota de culpa* to sign confessing to armed robbery. He was reportedly transferred on 29 August 2000 to Anibal Bruno prison. It is also believed that he was beaten during his transfer from the police station to the prison and was threatened with being put in a cell with members of a criminal gang who would kill him. Upon arrival, he was put in such a cell, but he fainted and was taken to hospital where he was diagnosed with having suffered a stroke. The military police officers who accompanied him are alleged to have told the nurses to

let him die. He was then taken back to the prison where he was beaten by the Head of Security and five prison and military police officers.

193. **Severino Paulino de Sena Torres** was reportedly arrested on 4 September 2000 on suspicion of counterfeiting by two military police officers who allegedly beat him at the time of arrest. He was reportedly punched and slapped for more than 10 minutes. According to the information received, he was taken directly to Anibal Bruno prison.

194. **Sergio Vasco da Silva** was reportedly beaten when he was transferred to Anibal Bruno prison at the beginning of September 2000 because he had complained about having his sunglasses confiscated by a police officer.

195. **Marco Antonio de Oliveira** was reportedly beaten upon admission to Anibal Bruno prison in Recife on 4 September 2000.

196. **Samek Sebastião da Silva** was reportedly arrested by two officers and brought to the district police office of Prazeres. He was said to have been asphyxiated and kicked by the police officers on 1 and 2 September. One officer reportedly played Russian roulette with him, holding a gun against his head and threatening to kill him and dump his body in a sanitary landfill. He was allegedly admitted to Anibal Bruno prison in Recife on 2 September 2000 and beaten at the admission office.

197. **Edson**, aged 18, **Luís**, aged 28, and **Antônio**, aged 18, were reportedly arrested by the military police without a judicial order in the Aracapá camp of landless rural workers in Cabrobó on 5 May 1999. They were allegedly subsequently taken to the military police station in Cabrobó, where they were reportedly subjected to various forms of torture. According to the information received, they were later transferred to a civil police station. They were reportedly charged with resisting arrest.

198. **M. F. de A.**, a 15-year-old student, was reportedly tortured on 8 February 1997 when he returned to his home in Vila Nova, Joana Bezerra, Recife. According to the information received, he had climbed a mango tree but ran away when a shop guard fired shots nearby. A number of military policemen on routine patrol are said to have heard the shots and to have suspected the running teenager of having committed a crime. The military policemen reportedly found no weapons on him. They reportedly slapped, kicked and punched him. Furthermore, they are said to have forced him to enter a tank full of caustic soda that allegedly burnt his body, particularly his genitals. He was reportedly taken to the police station specializing in children and teenagers (DCPA) where he reportedly received medical treatment. He is said to have required plastic surgery. Policemen were reportedly condemned to four years of imprisonment for the torture.

199. **Marli Barbosa** and **Rosana Lage Lígero**, a same-sex couple, were allegedly arrested on 19 June 1996 in Jabotão dos Guararapes on suspicion of murder and were reportedly beaten with pieces of rubber at the 14th district police station in Piedade. According to the information received, they were also verbally abused for their sexual orientation and forced to perform oral sex. They were reportedly denied access to their lawyer. The police chief is said to have asked them for money, which they allegedly refused to pay. They reportedly remained at the police

station for three days and then allegedly transferred secretly to the narcotics police station where they remained for five days. They were then allegedly returned to the Piedade police station and on the following day to a local prison, without having been sentenced. According to the information received, one month later they were taken back to the Piedade police station, where they were allegedly tortured again. They are said to have remained imprisoned for 11 months. It is believed that they suffered from discrimination due to their sexual orientation. It is alleged that the policemen involved received no punishment or reprimand. According to the information received, the case is being reviewed in the Supreme Court.

200. **Maria do Carmo Souza** was allegedly arrested by civil police officers on 19 January 2000 in Pesqueira. According to the information received, she was taken to the local police station and told to undress. She was allegedly kicked in the buttocks and punched in the stomach. It is reported that she suffered a haemorrhage. According to the information received, she remained naked inside the cell without being given any food and with no mattress for four days. On the fourth day she was taken out of the cell and kept, naked in front of the police officers and her lawyer, to sign documents. She was reportedly verbally abused and threatened with death. She was reportedly transferred on 23 January to a women's prison in Recife.

201. **W. C. de M.**, a minor, was allegedly imprisoned in May 1998 at the Paratibe unit in Abreu e Lima. His mother reportedly called the unit on 14 June 1998 and was told that her son was slightly ill but "doing fine". Later on the same day his dead body was taken to her house. She was told that he had died of an epileptic fit but his family reportedly found marks on his body which suggested that he had been strangled. He reportedly had marks on his neck, and wounds on his head and face. His legs were allegedly broken and his fingers injured.

202. **Marinaldo José da Silva** and **Walter Caetano Coelho**, detained at public prison in Barreiros, were reportedly handcuffed to the cell bars and beaten by six military police officers on 21 June 2000 as punishment for a supposed attempted escape by other prisoners and to "set an example". They are said to have had salt rubbed on their bodies and were reportedly threatened with death. Thirty other prisoners were allegedly beaten as well. The public prosecutor reportedly visited the prison on 3 July and heard witnesses about the incident. The prisoners reportedly underwent an official medical examination. A judicial inquiry has allegedly been opened.

203. **Luiz Pontes Ferreira Bastos Neto**, **Djalma Nazário César**, **Hítálio Bold da Silva** and **Flávio Gonçalves da Rocha** were allegedly arrested on 25 May 1999 and taken to the theft and robbery police station in Recife on suspicion of theft. They were reportedly beaten, slapped and nearly suffocated with plastic bags by police officers. Luiz Pontes Ferreira Bastos Neto allegedly underwent an official medical examination which registered lesions on his body.

204. **Alexandre José da Silva** and **Leonardo Luiz de Moura**, detained at Aníbal Bruno prison in Recife, were allegedly beaten by military police officers in their cells on 11 July 2000. They reportedly underwent an official medical examination on the same day. According to the information received, they were beaten again by prison guards when they came back to the prison. The incident is believed to have been reported to the prison's board of directors.

205. **Marcos Francisco da Silva** was reportedly attacked by another detainee in Anibal Bruno prison around 24 August 2000. He was subsequently said to have been requested to appear in the security section of the prison, where he was beaten on his back, upper arms and shoulders by four guards with thick wooden sticks. As a result, his back, upper arms and shoulders were said to have been covered in bruises.

206. **Jorge Luis da Silva** had reportedly been brought to Anibal Bruno prison at 7.00 a.m. on 4 September 2000. There he and another person, both accused of rape, were said to have been taken to a small room where they were beaten and stepped on by three prison officers for several minutes. At 7.00 p.m. the same day, three military police officers are said to have entered the triage room where he had been taken and to have told all the detainees to sit with their faces to the wall. They then reportedly singled out Jorge Luis da Silva, it is believed because he was accused of rape, and kicked and beat him in the stomach, chest, face and head for several minutes. Afterwards, they are said to have showered him with water in order for the beatings not to leave any marks. The other detainee accused of rape was reportedly threatened with "being next". Several days later, he is said to have seen a psychiatrist who allegedly taunted him in connection with the rape charge.

207. **Severino Ramos de Oliveira Filho** was reportedly arrested by civil police in his home in Brazeos on 4 September 2000 on suspicion of murder. During the transfer from his house to the vehicle theft police station, he was said to have been beaten and slapped on his face, chest and hands by three officers. His mother and a lawyer are said to have gone to the police station but the lawyer was reportedly denied access and Severino Ramos de Oliveira Filho was allegedly told that he would only be entitled to a lawyer once he had been transferred to a prison. Two days later, one of the arresting police officers reportedly burned his right arm with a cigarette, and another officer is said to have hit him on his left knee with a wooden stick. For four days, police officers reportedly entered his cell at regular intervals (in the morning, around 3.00 p.m. and at 10.00 p.m.) and slapped him on the face, asking him why he had committed the murder. They told him that he had already been sentenced, despite the fact that he has reportedly not had a trial.

208. **Humberto Ferreira Mendes Filho** was reportedly arrested on 31 August 2000. He was allegedly beaten with a wooden stick, kicked by six military police officers, *inter alia* in the mouth, and had his legs stepped on for over five hours. Subsequently, he was allegedly transferred to the theft and robbery police station in Recife. There civil police officers are said to have asked him for a bribe of 5,000 reais to release him. When he responded that he did not have the money, they reportedly threatened to suffocate him by placing a plastic bag over his head. He subsequently signed a confession to armed robbery. After four hours, he was reportedly transferred to Anibal Bruno prison, still covered in blood. He was said not to have received any medical attention at the prison. At the time of the interview (7 September), marks consistent with his allegations, including scars on his mouth and lower legs, were still visible.

209. **Jose Marcos Pereira Ramos** was reportedly arrested around midnight at his home in Caruaru on 29 May 2000. A masked military police officer is said to have broken into his home with the intention of killing his brother-in-law, who had allegedly threatened to kill the officer. The officer is said to have mistaken Jose Marcos Pereira Ramos for his brother-in-law and shot at him. Jose Marcos Pereira Ramos reportedly shot back and wounded the officer in the arm,

which had to be amputated. He is then said to have tried to escape by jumping over a wall. A further 30 military police officers, all masked and including a lieutenant, reportedly broke into the house, beat his wife, his mother, his mother-in-law and two children, aged 7 and 4. The officers are said to have shot Jose Marcos Pereira Ramos in the right foot and to have hit him with a wooden stick on his left leg. They then reportedly forced him to drink half a litre of sewage. He was then reportedly transferred to the 4th military police headquarters. There he is said to have been beaten for several hours by more than 30 military police officers, who reportedly took turns. They reportedly hit him in the stomach and on his elbows with a wooden stick. They are said to have kicked his testicles until one burst. Jose Marcos Pereira Ramos allegedly fainted three times and each time they are said to have thrown water on him to wake him up. He also is said to have vomited blood. He subsequently accepted responsibility for shooting the policeman and asked for his two brothers-in-law to be released from detention, which was done. At 7.00 a.m., he was reportedly transferred to the 1st district police station in Caruaru. There he was said to have been threatened with death. A policeman reportedly put a gun in his mouth and threatened to pull the trigger. He was said to have been kept there for two days, during which time he is said to have been subjected to threats. He was reportedly forced to sign a confession for another homicide. He was said to have been transferred to Caruaru penitentiary where he was kept for three months. After having a fight with another detainee, he was reportedly transferred to Anibal Bruno prison. A police officer from Caruaru penitentiary is said to have told a relative of Jose Marcos Pereira Ramos that there was a chance that he would be killed at Anibal Bruno prison. A military police officer working at Anibal Bruno prison, who is said to be a friend of the military police officer who had lost his arm and who is said to have visited Caruaru penitentiary at the beginning of August 2000, reportedly told another prisoner that Jose Marcos Pereira Ramos deserved to have his mother killed and that in case of a revolt or an escape, he would be the first to die.

210. **Daniel de Brito Montenegro**, detained at the infirmary of the Aníbal Bruno penitentiary, had reportedly been suffering from HIV for more than 10 years. He had previously been detained in Vitória de Santo Aníão prison, and was said to have been transferred to Anibal Bruno in August 1999 for medical treatment on the order of a judge. Anibal Bruno prison is said to receive the “cocktail” AIDS drug treatment from the State of Pernambuco. In June 2000, Daniel de Brito Montenegro had reportedly developed lesions on the left side of his face. He is said to be suffering from back pain and muscle aches, and to urinate blood. He is also said to have lost weight. At the time of the Special Rapporteur’s visit (9 September), he had still not been taken to hospital for an examination to determine whether he should receive medication for AIDS. The only medication he is said to be receiving is for headache and inflammation. The reasons reportedly given were that the prison did not have enough staff or a vehicle available. Some days after the Special Rapporteur’s visit, the prisoner was reportedly sent to Correia Picanço Hospital but did not receive the required examination as there was no doctor available. The Special Rapporteur notes that he sent an urgent appeal on this case on 7 December 2000 (see E/CN.4/2000/66, para. 189).

211. **João Paulo Lima da Silva** was reportedly arrested and taken to Orobó *delegacia* by the federal police in May 2000 after a woman accused him of rape. According to the information received, the following day he was beaten with nightsticks on his back and thorax for 10 minutes by federal police who subsequently transferred him to João Alfredo jail. They allegedly told him that they would not stop beating him until he confessed. He is believed not to have received

legal assistance and to have signed a paper which he was not allowed to read before. He reportedly started vomiting blood. He allegedly asked the military policemen to take him to the hospital but the police reportedly replied that he had no right to go to the hospital and beat him again, including with a *palmatório*. He is said to have spent three months in João Alfredo. He was allegedly transferred to Anibal Bruno on 4 September without his family being informed. According to the information received, when he arrived two prison guards at the entrance took his clothes off and hit him with the palms of their hands on his back and thorax for several minutes.

212. **Arlindo Francisco da Barro Neto** was reportedly arrested on suspicion of murder by nine police officers who took him from his aunt's house at 7.00 p.m. to "Lixão do Muribeca" where he was allegedly handcuffed and beaten with iron bars in the presence of his nine-year-old nephew. The police officers reportedly threatened to break the nephew's fingers if he didn't "tell the truth". He was reportedly beaten with a tyre, mud was put into his mouth and he was forced to eat grass. Plastic bags were allegedly put over his head and he was reportedly put in the trunk of a car. The police officers let the nephew go at about 9.30 p.m. He was reportedly taken to his home in Mostardinha where, according to the information received, he was blindfolded and his pregnant wife was sexually assaulted and beaten by the police officers who were allegedly searching for a weapon. The police officers allegedly remained at the house until 3.00 a.m. Arlindo Francisco da Barro Neto was then reportedly taken to the Ceasa *delegacia*. On their way the police officers allegedly stopped the car and beat him with a metal bar. According to the information received, at the *delegacia* he was put in a cell and handcuffed, his legs tied stretched out in opposite directions. He was left in that position for two days. He was reportedly not given any food or water and not allowed to go to the bathroom. He was allegedly then taken to the Mostardinha police station where he saw his wife and two-year-old son and where he is reported to have remained for one day before being transferred to the homicide police station, to the IML and to Anibal Bruno prison. He allegedly told the doctor everything that had happened and the doctor is said to have taken note. According to the information received, he did not sign a confession. When he arrived at Anibal Bruno, he was allegedly told by two guards to take his clothes off and to crouch down. When he got up he was reportedly punched in the stomach and back and kicked in the genitals for about one hour. According to the information received, he was visibly scared and traumatized, his legs were swollen, allegedly as a result of the beatings with iron bars, he had 5-cm-long deep scratch on his elbow, he had marks, bruises and scratches around his wrists reportedly caused by the handcuffs, bruises on his feet, on his back and on his neck. He was reportedly not given medication or examined by a doctor.

213. **Luiz Missandro Silva de Lima**, detained in Anibal Bruno Prison, was reportedly put naked in the isolation cell where he was allegedly beaten by about 10 policemen and prison guards on 7 September 2000 while the Special Rapporteur was visiting other wings of the prison. According to the information received, he was kicked and beaten with a piece of wood on his back, chest and abdomen.

214. **Marcos Antônio Dias de Andrade**, detained in Anibal Bruno, was reportedly kicked and beaten with a piece of wood by some six policemen on 7 September 2000 while the Special Rapporteur was visiting other wings. As a result of the beating, he reportedly sustained wounds to his left eye, mouth and neck. According to the information received, he has not received any medical care.

215. **Zinho Luis do Nascimento**, detained in Aníbal Bruno, was reportedly sent to the infirmary after the Special Rapporteur's visit on 7 September 2000 but did not receive any medical care for a bullet which was lodged in his leg. According to the information received, the bullet was not removed and he was put in a punishment cell on 8 September 2000 for 30 days. He was reportedly beaten on the back and face by the former security chief who allegedly told him that he had talked too much.

216. **Laurimar Vieira de Souza**, held in the punishment cell of Aníbal Bruno Prison, was reportedly slapped on the face and back, kicked and beaten by military policemen on 7 September 2000 while the Special Rapporteur was visiting other wings. It is believed all the other detainees in the punishment cell were similarly treated.

217. **Sérgio Vasco da Silva**, detained in Aníbal Bruno Prison, was reportedly severely beaten on 7 September 2000 while the Special Rapporteur was visiting other wings. He was allegedly subsequently transferred to Block 1.

218. **Jefferson Felix dos Santos Corrêa** was reportedly arrested on 3 September 2000 by military police in a small town. He was allegedly handcuffed and kicked in the back by a police officer. According to the information received, he was forced to sit down and four police officers kicked him in his stomach and ribs, slapped him and hit his head for about 30 minutes. He was taken to Baradoro where he was reportedly kicked and hit by 10 civil police officers and a military police officer for about 30 minutes. As a result of the ill-treatment, he allegedly confessed to an offence. The torture reportedly stopped when his father arrived. According to the information received, although he had marks on his neck and on his back, a bruise under the left eye and a large mark on his spine, he was not taken to the IML.

State of Piauí

219. **Maria Almira Ferreira da Silva**, a pregnant dressmaker, was allegedly visited in Piauí by military police officers, a court official and the owner of her rented house on 17 April 2000 with an eviction notice. The owner of the house reportedly beat her, pushed her against the wall and slapped her. The military police officers and the court official allegedly removed the furniture while she was being beaten in front of them and her young sons. She was reportedly taken to a hospital suffering from severe bruising and she is said to have died three days later. The official medical examination allegedly registered that the haemorrhage was caused by the blows that she had received. The Office of the Public Prosecutor is said to be investigating the case. The Special Rapporteur would be grateful to receive information about the outcome of the investigation.

State of Rio de Janeiro

220. **Alexandre Madado Pascoal** was reportedly the detainee who suffered the most serious injuries as a result of the beatings which were said to have taken place at Moniz Sodré provisional detention facility on 28 August 2000 (see above). It is believed that he had been beaten more seriously than other inmates because he had loudly complained about a picture of his daughter and some money (20 reais) which had gone missing after the cell search. Apart from the beatings, which allegedly made him faint four times, the head of security is believed to

have put his finger in his anus and to have bit his buttocks. On 30 August 2000, after his appearance before a magistrate who is said to have refused to hear him and to have ordered his immediate transfer to an emergency room, he is said to have been taken to hospital where a doctor had reportedly ordered his hospitalization, which was said to have been refused by the guards escorting him. He allegedly received no medical treatment, not even painkillers. He was then taken to the IML where his injuries were said to have been recorded. But he did not complain about the beatings for fear of reprisals since a guard from Muniz Sodré was constantly present. At the time of the interview (31 August) two large haematomas were present on the lower part of his back; a large bump was visible at the back of his head; he could not move his right leg and left arm; his lips were cut; bruises were present all over his body, in particular on his forehead; and some of the fingers of his left hand seemed to be broken. He was said to be vomiting blood. He could not understand why he had not been taken back to Muniz Sodré and was worried about the fact that his current place of detention was very far from his family home, which would make visits almost impossible. With the diligent help of the officer-in-charge of Vieira Ferreira Neto, Alexandre Madado Pascoal was then taken on a stretcher to a medical unit next door, where a doctor examined him and, shocked, ordered his transfer to a hospital. Informed of the situation by the Secretary of State for Justice, the Assistant-Secretary for Human Rights and the Head of Security for the Penitentiary System joined the Special Rapporteur at 2.00 a.m. and recorded the testimonies of Alexandre Madado Pascoal. They assured him that he would receive the proper medical treatment and protected against reprisals. The Special Rapporteur was also informed that the Secretary for Justice had already taken the decision to remove the director of Muniz Sodré and his head of security from their offices, pending investigations. The Special Rapporteur specifically asked the authorities to take the necessary measures, including the opening of a criminal investigation into allegations of torture.

221. Jailson Thaumaturgo da Rocha Junior, Alexandre Arantes, Flavio Ailton da Silva, Paulo Sergio Souza de Oliveira and Roberto da Costa Santiago were amongst the detainees who were allegedly beaten at Muniz Sodré provisional detention facility on 28 August 2000 (see above). They were eventually taken back to Muniz Sodré on 30 August and individually interviewed by the Special Rapporteur, during which they confirmed the allegations made by their co-inmates. They indicated that they had been taken to the IML of Mendensa e Invalidos where they had received medical treatment and where forensic experts were said to have stated that the guards would be in trouble because of what they had seen. The prisoners were reportedly left alone by the military police officers accompanying them when they were examined by a doctor and his assistant. It is believed that a full record of their injuries has been made and that the detainees have explained what had happened. They all bore visible marks consistent with their allegations and were afraid of being subjected to reprisals after the Special Rapporteur's departure. Jailson Thaumaturgo da Rocha Junior had large bruises on his left shoulder and on the right side of his stomach, four stitches on the back of his head and haematomas on the forehead; Flavio Ailton da Silva had four internal and four external stitches on the right cheek and haematomas on the left elbow and a large bruise on the right-hand ribs; Alexandre Arantes had seven stitches on the head and haematomas on the forehead and left part of the body; Paulo Sergio Souza de Oliveira had haematomas on the back of the left shoulder and on the left side of the back, contusions and a scratch on the right shoulder, a serious contusion on the middle of his spine, a swelling on his right arm, as well as an infected wound below the umbilicus; and Roberto da Costa Santiago had a haematoma on the genitals and a swelling and large bruise on the right hand which was believed to be broken.

222. **Pedro Cândido** was reportedly arrested 30 August 2000 on suspicion of bank robbery by two military police officers of the 20th Battalion. He was said to have been taken to military police headquarters where a towel was tied tightly around his neck and he was beaten. He allegedly fainted twice. He was then reportedly taken to the 54th district police station of Rio de Janeiro where he was forced to sign a *nota de culpa*, but, he believed that he would be able to retract his confession before the judge.

223. **Marcelo de Freitas Pacheco** was reportedly arrested on the street in Nove Iguaçu city on 12 August 2000 by military police officers from the 20th Battalion. At the time of arrest, he was allegedly beaten on the chest with the butt of a gun and kicked. According to the information received, he was then driven in a car for the entire night. He was allegedly threatened and was asked to pay 2,000 reais. He was eventually taken to the 52nd district police station of Rio de Janeiro where, handcuffed, he was allegedly beaten with iron bars and kicked. He was then reportedly taken to the 64th district police station. He was never taken to the IML and did not have access to a lawyer.

224. **Fabio de Almeida Ramos** was reportedly arrested on 5 October 1999 by military police officers. He was allegedly taken to the 64th district police station of Rio de Janeiro where he was beaten by civil officers with iron bars. He was reportedly subjected to the “parrot’s perch” on an iron bar with a towel tied around his neck and beaten with wire on various parts of the body. He was reportedly forced to sign a confession. He is said to have been taken to court where he complained to the judge about his treatment. The judge is reported to have ordered he be taken for a forensic medical examination. On 11 September 1999, he was believed to have been taken to the Central Hospital where he received medical treatment. He is said to have a private lawyer assisting him.

225. **Valério Vinicius Lopes dos Santos** was reportedly arrested by military police officers from the 21st Battalion on 30 April 1997 on suspicion of armed robbery. He was first detained in a police lock-up in Nove Igauçu. On 23 March 2000, he was reportedly taken to the 64th district police station of Rio de Janeiro where he was allegedly beaten in front of the *delegada* in order to make him sign a confession. Then he was allegedly taken to the *seguros* cell where he is believed to have spent six days. During this period, it is reported that he was presented to the media as a criminal involved in armed robberies. At the time of the interview (31 August), he still had three open wounds on his right foot, for which he was not receiving any medical treatment.

226. **Mauro Teixeira da Silva** was reportedly arrested on 21 January 2000 by military police officers from the 20th Battalion on suspicion of drug trafficking and the murder of a police officer. Handcuffed, he was said to have been taken to a remote area where a plastic bag was put over his head and a shot fired next to his head. On the same day, he was reportedly taken to the 54th district police station of Rio de Janeiro where he was allegedly electro-shocked on the genitals and beaten on the head and legs with iron bars. It is believed that he was subjected to the “parrot’s perch” for one and a half hours. It is reported that he was tortured for two days before he signed a confession.

227. **Marcos Claudio de Azevedo** was reportedly arrested on 7 August 2000 by military police officers acting as private security guards, on suspicion of armed robbery. It is believed that he

was tortured for five hours following his arrest. According to the information received, he was severely beaten with iron bars in a public place. The guards were reported to have shouted that he was a criminal and therefore deserved such treatment. He was then reportedly taken to the 54th district police station of Rio de Janeiro where he was slapped by an assistant *delegado*. He is believed to have signed a confession after having been beaten again on the ribs and face. Handcuffed, he is reported to have been suspended from a hook on the ceiling of the office of the head of the lock-up. The police officers are said to have then realized that they had mistaken him for someone else. He was reportedly taken to an emergency room where he received medical treatment. He was then taken to the 64th district police station. He was believed not to have been presented before a magistrate.

228. **Ezequiel Cándido Francisco** was reportedly arrested in flagrante delicto at the beginning of August 2000 and taken to the 64th district police station of Rio de Janeiro where he was allegedly beaten by other inmates, the so-called trustees, under the supervision of the police officers, in order to extract a confession to intentional killing. He is said to have fainted and to have been taken to a hospital where he received medical treatment. At the time of the interview (31 August), he was detained in the *seguros* cell and still had two large open wounds on his back and scars on his legs consistent with his allegations.

229. A **minor** detained at Padre Severino juvenile detention centre was reportedly severely beaten on 27 August 2000 for having laughed out loud. According to the information received, the director and the subdirector of the centre reportedly made an inspection, put everybody out of the cell and asked who was being so noisy. The minor raised his hand. He was reportedly given a cold shower, slapped, beaten with a wooden stick on his chest and face for 10-15 minutes and forced to stand up facing the wall for some time. It is thought that he was later sent back to the cell.

230. **J.G.**, a minor, was allegedly transferred to Padre Severino in the summer of 2000. During a revolt, he was reportedly caught and put in cell 4 with 27 other minors. It is reported that all the detainees were taken out of the cell except him, that he was told he was considered responsible for the revolt and that he would be taken to the *delegacia*. He was then allegedly beaten for about 30 minutes, subjected to "telephone" torture, and later taken to another room where he was reportedly beaten for another 20 minutes. According to the information received, on the way to the *delegacia* he was reportedly threatened and at the police station, the officers declared that he had tried to hit them. He reportedly signed a confession without seeing or reading what he was signing. He was allegedly not allowed to see a judge. After a week, he was reportedly taken to the hospital. Despite the fact that he had bruises, the doctor reportedly did not ask how he had sustained the injury. The guards were reportedly always with him during the examination. According to the information received, he had been threatened with death if he were to say anything to a judge.

231. **A.D.R.** was reportedly arrested for robbery and transferred to Padre Severino in late August 2000. The following day, three guards reportedly slapped, punched and beat him with a wooden stick for 15 minutes, as a result of which he allegedly lost a tooth. Afterwards, he was reportedly left alone in a cell for a day.

232. **J.P.O.**, aged 15, and six other boys detained at Padre Severino had reportedly been hit and slapped in front of the other detainees by the director of discipline on 24 August 2000. He is said to have been hit to such an extent that his nose began to bleed. The director is said to have accused him of planning a revolt, as he had been standing and talking in a small group of inmates. The seven juvenile detainees were subsequently reportedly put in a punishment cell for four days. Four weeks earlier, J. P.O. is said to have been slapped and punched on the nose. He reportedly asked to register a complaint at a police station on the same day, as he had marks on his face. The *delegado* at the police station is said to have asked him to get a medical certificate at the IML, however, he was only reportedly taken to be examined when all the marks had healed.

233. **Jefferson Gomes de Lima** had reportedly been accused of hitting a guard in Padre Severino juvenile detention centre with a light bulb on 8 August 2000 during the daytime, which he denied. Three warders are said to have beaten him for half an hour in the lock-up where he had been taken. They reportedly hit him in the chest, despite the fact that he is said to have breathing problems, and to have beaten him in the face. Blood reportedly came out of his left ear. The warders allegedly threatened that if he told the technical assistant, they would beat him again. Nonetheless, he spoke to the technical assistant who reportedly took him to the doctor based at the institution. The doctor and a guard took him to hospital. There he was diagnosed with a punctured eardrum. He was told to keep his ear dry and to take medication for a week. He was reportedly only given medication for two days and not provided with cotton to keep his ear dry. His face is also said to have been swollen. A week later, the wardens reportedly accused him of having tried to kill another adolescent. It is believed that the accusation is related to the fact that he had spoken to the technical assistant about the beating. The warders on duty are said to have come into his cell every morning for about a week and to punch him in the chest and face. He reportedly went to the nurses station. As a result of the beatings, he is still said to be suffering from earache.

234. **Carlos Moreira Mendonça Alves** had reportedly been transferred to Padre Severino at the end of July 2000. Several days after his arrival, he was said to have been handcuffed and taken to the swimming pool by the director of discipline, the deputy director and another warden. They reportedly beat him with wooden sticks and a wooden board, shattering a bone in his left arm. He was said to have been beaten for more than an hour. They reportedly threw him into the deep end of the pool. When he managed to get to the shallow end, they are said to have pulled him out of the pool and to have thrown him in again at the deep end. They reportedly repeated this three times. When they realized that his arm was swollen, they allegedly beat him in the face. They reportedly took him to the hospital, where they said that he had fallen off a wall.

235. **T.N.**, aged 16, was reportedly beaten for about an hour by the director of discipline of Padre Severino, and another employee of this institution on 23 August 2000. Some of the detainees had allegedly taken out the light bulbs of the cell to light cigarettes. The two men are said to have entered the cell, thrown T.N. on the floor and hit him on the left side of his face, back and chest, *inter alia* with a wooden board. He reportedly told them that the doctor had said that they should not step on his chest as he had a congenital deformation of the chest, but they allegedly continued to beat him on the chest.

236. **S.A.M.**, aged 16, and three other detainees in Padre Severino juvenile detention centre were reportedly talking during lunch-time in the dining room on 28 August 2000, when four guards are said to have taken them to the side of a corridor where no one could see them. They were allegedly beaten in turns for having spoken too loudly. S.A.M. was said to have been handcuffed and beaten on the face and punched in the chest. At the time of the interview (29 August), marks consistent with his allegation were still visible.

237. **J.L.M.M.**, aged 17, a detainee at Padre Severino detention centre, was reportedly given a torn coat on 7 August 2000, and then accused of tearing it. Other detainees were reportedly taken out of the room where he was. Two warders allegedly kicked him and punched him in the face and stomach. They are said to have threatened him that if he told the technical assistant, they would beat him more. At the time of the interview (29 August 2000), a large bruise on his head consistent with his allegation was still visible.

238. **Sorge Bonifácio de Paulo** was reportedly hit on the chest upon arrival at Padre Severino juvenile detention centre in mid-August 2000, after he was asked where he was coming from. He was allegedly already bruised, as he was said to have been beaten previously by the police.

239. **W.S.S.**, aged 16, also a detainee at the Padre Severino detention centre, was reportedly talking to another boy in mid-August 2000, when a guard told everyone to be quiet. The guard is said to have accused him of smirking, to have said that he would break the boy's tooth and then to have hit him in the face. A week later, the guard reportedly accused them of planning a rebellion, and beat W. de S.S. and a number of other boys with a wooden board. At the time of the interview (29 August 2000), injuries on his legs consistent with his allegation were still visible.

240. A **13-year-old boy** was reportedly tortured by the director of discipline of Padre Severino detention centre and a warder at the end of July 2000. They are alleged to have counted to three and then to have slapped him simultaneously on his ears ("telefono"). The warder is said to have punched the boy with a silver ring, leaving scars on his mouth and head. At the time of the interview (29 August 2000), marks consistent with his allegation were still visible.

241. A **15-year-old boy** was reportedly hit on the chest by a guard during breakfast on 29 August 2000 at Padre Severino juvenile detention centre.

242. **Rafael** was reportedly smoking a cigarette in his cell during the night of 8 August 2000. A warder and the director of discipline of Padre Severino juvenile detention centre are said to have pulled the boy out of the cell and to have taken him to the corridor where they allegedly subjected him to the "telefono". They then reportedly took him to the dining room where they began to shout at him. They allegedly turned on the gas and held his hand in the flame, which had been turned up high, for about five seconds. The following day, the boy was reportedly taken to the infirmary. At the time of the interview (29 August 2000), an extensive burn consistent with his allegation was still visible.

243. **Crisostomo de Andrade**, an Arab cook, and two other detainees were reportedly severely beaten by 20 persons from the SOE and other penitentiary agents from Saturday night, 26 August 2000, until Sunday morning at Moniz Sodré prison. He was allegedly beaten in

connection with an escape attempt by other inmates. He was said to have been beaten by guards on all parts of his body, on the back with rifle butts and kicked in the face. He was said to have been taken to a doctor, who examined him and gave him an injection. The doctor reportedly asked him what had happened, whereupon he responded that he had fallen, due to the fact that the police officers were said to have been present during the medical examination. He had reportedly been placed in the punishment cell since 26 August 2000 in a cell without electric light and without being able to leave the cell. At the time of the interview (30 August 2000), marks consistent with his allegations, such as haematomas on his lower back and across both his shoulders and his legs, were still visible. Owing to their health condition, the other two detainees were said to have been kept in hospital.

244. **Sereno Mauro Fernando Oliveira Silva** had reportedly been placed in the punishment cell of Moniz Sodré prison and had been threatened by a guard with being beaten for possessing a small mirror on 27 August 2000. On that day, he and another 13 detainees were taken out of the punishment cells. Five prison guards reportedly bearing weapons and a big wooden stick ordered the prisoners to line up facing them with their hands behind their backs. The detainees were then said to have been told to bend their heads to the right and subsequently to the left, whilst the guards allegedly hit their shoulders with wooden sticks. They were further reportedly hit on their hands with wooden sticks and subsequently on their backs with wires and iron cables. At the time of the interview (30 August 2000), marks consistent with Sereno Mauro Fernando Oliveira Silva's allegations were still visible, such as marks and bruises on his stomach, his left shoulder and haematomas on his back.

245. **Adilson Leal de Souza**, a reportedly HIV positive inmate in Moniz Sodré prison, had reportedly not received any medication and had reportedly not been allowed to be hospitalized despite his medical condition.

246. **Neil Barbosa Marques** was reportedly one of the persons beaten in the 28 August 2000 incident in Moniz Sodré prison (see above). Like others, he was allegedly severely beaten with iron bars and wooden sticks on his leg, and with an iron bar on his left arm and the left side of his body. At the time of the interview (30 August 2000), marks consistent with his allegations, such as marks on his left arm and side and haematomas on his shoulder, were still visible.

247. **Wagner Marco da Silva** was reportedly shot in the head and in the stomach by military police on 17 August 1997 in Botafogo when he was leaving work. He was said to have been wearing earphones, so he did not hear the military police calling him. They allegedly shot him and placed a weapon on him. He was reportedly kept in a hospital for three months and was said to have been handcuffed for the whole time. He reportedly did not receive appropriate treatment and is now said to be disabled. He was allegedly accused of drug trafficking and is said to have been detained in Bangu/Moniz Sodré for a year and a half pending trial. The trial is said to have been suspended for unknown reasons. There are alleged to be six witnesses to the incident. The officers reportedly responsible are said to be still on duty.

248. **Carlos Abel Dutra Garcia**, a naval officer, was reportedly arrested on 20 August 1996. According to the information received, a car approached his car while he was at a gas station very close to a *favela*. A man is said to have pointed a gun at him, to have showed him a badge identifying him as a federal police officer and to have shot in the air. He was reportedly asked to

put his hands up and to show his documents and was allegedly kicked in the stomach. Military police officers reportedly arrived and a *delegado* told him and his friend, who was sitting in the back of the car, that they were under arrest. Their car was reportedly subsequently searched. Another three military police cars and a civilian car with four federal agents are said to have arrived. A lieutenant allegedly asked for an explanation, talked with the *delegado* of the federal police and reportedly told Carlos Abel Dutra Garcia to remain calm. The latter was reportedly forced to lean against a car with his arms in the air for about 30 minutes and was kicked to keep his legs apart. Another police car arrived with six federal police officers, who searched Carlos Abel Dutra Garcia and his car again. He was allegedly punched in the face, put in a police car and taken to the federal *delegacia* at about 11 p.m., together with his friend. Upon arrival, several police officers reportedly hit his head against the wall, punched him in the back and kicked him until he fell. They are then said to have grabbed his hair to make him get up and he was taken to a corridor, where he was reportedly punched, kicked and hit again for about 30 minutes. As a result, his mouth and nose were said to have been bleeding. The *delegado* reportedly grabbed his arm, told him to stand up and punched him in the head and chest. An officer allegedly pointed a gun at him and said “let’s finish him” but finally put the gun away and hit him again. As he fell down, several agents reportedly started to kick him for about 15 to 20 minutes. He was allegedly made to stand up, and punched in his eyes, before being placed in a cell at 2 a.m. for about an hour. He was then reportedly beaten again and showered with cold water. He was said to have been taken to see a lawyer waiting at the police station who allegedly told him that he was under arrest for disrespecting the authorities and for aggression. In 1997, he was reportedly cleared of these charges in court. When he left the police station, he reportedly saw a medical doctor, who allegedly certified that he had been severely beaten. The following day, he is said to have lodged a complaint against the police officers with the Office of the Public Prosecutor, which reportedly opened an investigation. The prosecutor of the Republic is said to have sent the case to a federal court. The police officers reportedly submitted a federal habeas corpus petition, arguing that the Ministry of the Public Prosecutor had exceeded its competence in investigating cases involving federal police officers. This is said to have stopped the proceedings in 1998. Since then, Carlos Abel Dutra Garcia has reportedly been subjected to death threats by police officers who reportedly called him in to the police station to give a statement, and he was allegedly being followed. As a result, he reportedly applied to the National Secretariat for Human Rights for support and protection against the federal police, which he was said not to have been granted. The general prosecutor reportedly submitted new indictments of the police officers for “administrative impropriety”. These indictments were allegedly not accepted by the judge of first instance, who reportedly refused them as “inappropriate”. In July 2000, Carlos Abel Dutra Garcia is said to have filed a civil action seeking damages. The proceedings are said to be pending before the Supreme Court in Brasilia. The Special Rapporteur would be grateful to receive information on the outcome of the judicial proceedings.

249. **Anderson Carlos Crispiniano**, a 20-year-old man, was reportedly arrested by three civil police officers at his home in a Rio de Janeiro shanty town (*Morro do Adeus*) on 28 June 2000. According to the information received, the police officers had no arrest warrant and his family was not informed about where he would be taken. It is reported that later on that night, his family looked for him at the nearest local police station, where they allegedly were told that there existed no information about his arrest. His family allegedly received a phone call later from the officers, who indicated they would be in touch but refused to report where Anderson Carlos

Crispiniano was being held. According to the information received, his family received a second telephone call and spoke briefly to him but were not informed of his location. The family reportedly received a third phone call, in which the officers told them that if they did not give them 5,000 reais, a gold chain and his car keys, they would plant drugs on him and kill him. A woman identifying herself as an “attorney” instructed by the officers reportedly came to the shanty town later and picked up the gold chain and the car documents (his relatives had not had time to raise all the money demanded). About one hour later, the woman reportedly returned and picked up the money the family was able to raise. Twenty minutes later, she allegedly came back in a vehicle with Anderson Crispiniano sitting on the back seat. According to the information provided, he had been beaten on the head repeatedly and his toenails had been torn out during his detention. He was reportedly taken to a clinic and to a hospital. As a result of the torture, he was reportedly unable to speak. He was allegedly diagnosed as having suffered from a stroke and bore marks of severe beatings on many parts of his body. According to the information received, after a local newspaper published an article about the incident, he and his family were threatened with death several times. The police officers reportedly searched for him in the hospital where he was a patient. Anderson Crispiniano reportedly died on 17 July 2000. His body was exhumed on 24 August 2000. His father is said not to have authorized the exhumation of the body. It is reported that the results of the autopsy have not been conveyed to the family and the body is believed not to have been buried. Finally, the Special Rapporteur notes with concern that he had sent an urgent appeal on Anderson Crispiniano’s behalf on 7 July 2000 (see E/CN.4/2000/66, para. 187).

250. **Wladimir Alexandria de Castro**, detained at the Dr. Serrano Neves Penitentiary - Bangu III in Rio de Janeiro, allegedly tried to escape from the prison hospital on 26 December 1999. According to the information received, although he was suffering from tuberculosis, he was reportedly sent back to Bangu-III instead of to a hospital to punish him for his escape attempt. He was allegedly threatened with death by the prison’s military police chief. His request to be transferred to the prison hospital was allegedly denied. He is believed not to have received medical assistance despite his health condition.

251. **Istali Leão Marinho, Eloécio Leão Marinho, Jair Pena and Marciano Pena**, detained at Polinter in Macaé, Rio de Janeiro, were allegedly arrested on 25 August 2000 under the accusation of having attacked a military police box to steal weapons. They were reportedly almost suffocated, kicked and threatened with death by military police officers.

252. **Adriano Tokimitsu Oliveria Maia**, a 26-year-old man detained at the Roberto Medeiros (Bangu) mental asylum penitentiary unit in Rio de Janeiro reportedly suffered from a problem in his ear. In August 2000, he allegedly asked a prison guard for some medicine. According to the information received, he was then verbally abused, kicked, punched and hit with a piece of wood by four guards who had entered his cell. His leg and his arm were allegedly broken. According to the information received, he was taken to hospital four days later. The doctor who attended him reportedly denounced the beatings to the Secretary of Justice. He is said to have been transferred to the Henrique Roxo insane asylum penitentiary unit.

State of Rio Grande do Norte

253. **Heridelso Medeiros de Souza**, a municipal public servant, was reportedly handcuffed, punched and kicked by two military policemen in Natal on 17 August 2000. According to the information received, he had asked the military police to stop a fight among participants in an election rally. He was reportedly taken to a police station, where he was kept in a cell dressed only in his underwear. Before being released on the following morning, he was reportedly threatened and forced to ask for “forgiveness”. His lawyer is said to have denounced the case to the authorities and to the *corregedoria* of the military police, but no action is believed to have been taken.

254. **Daniel Bezerra da Silva**, was reportedly beaten in the military police station in Parque 13 ed Maio, Bairro Dix-Sept-Rosado, Natal, on 7 July 2000. According to the information received, the sergeant in charge of the station beat him up with a piece of wood, causing injuries later confirmed by examinations at the Forensic Medical Institute. After the beating, he was reportedly held in detention for almost 24 hours and released with no explanation. He is said to have reported the alleged violence to the 8th district civil police station and to the *corregedoria* of the military police. There are believed to be two witnesses. No action has reportedly been taken in the case.

255. **Francisca Alves de Souza** and **André Luiz Santos da Silva** were reportedly arrested by three police officers on 2 June 2000 in Natal on the accusation of having stolen and hidden money. They were allegedly taken to the theft and robbery police station where they are said to have been beaten in order to extract a confession. Francisca Alves de Souza was reportedly verbally abused by the officers who allegedly beat her. According to the information received, they put a plastic bag over her head and almost suffocated her. She was allegedly beaten on her abdomen but she reportedly kept denying the theft. She was reportedly released on the same day. Several days later the police allegedly entered her house and took her to the police station, where she gave a statement regarding the incident. She is said to have made a report to the public prosecutor, who reportedly sent it to the *corregedoria* of the police. According to the information received, there has been no police investigation.

256. **Ismail Ferreira de Oliveira** reportedly went to the 3rd district police station in Natal on 25 May 2000 to report a theft that had occurred in his father’s house the previous day. His father allegedly reported the same crime at the theft and robbery police station. According to the information received, as he returned from the 3rd district police station on 26 May, the police officers from the theft and robbery police station stopped him and took him to their station. He was reportedly taken to an investigation room where he is said to have been ordered to remove his clothes and forced to confess to the burglary of his father’s house. According to the information received, the officers placed a protective lining on his wrists (so as to prevent any marks) and handcuffed him. He was reportedly forced to sit on a chair and had his head covered with a plastic bag. It is said that he was almost suffocated at least four times. He was reportedly strangled by an officer and lost consciousness. He was allegedly threatened by a police officer, who said that they would take him to a lake and beat him up and no one would be able hear his screams. He was allegedly released that afternoon. Afterwards he reportedly gave a statement to the public prosecutor who apparently sent it to the *corregedoria* of the police. The officers accused of the torture have reportedly not been punished.

257. **Ubiraci Gomes da Silva**, a 27-year-old man detained at the João Chaves Penal Colony in Natal, was allegedly beaten by police officers on 20 March 2000. According to the information received, there was an attempted break-out in the prison and the police officers mistook him for one of the escaped prisoners. As a result of the beating, he reportedly sustained two wounds to his left leg which required six and four stitches respectively. He allegedly underwent an official medical examination. The *corregedoria* of the police has allegedly been informed about the incident.

258. **Emerácio Honório de Souza** was allegedly arrested by a military police officer in Natal on 3 June 1999 under the accusation of smoking marijuana. According to the information received, he was taken to a police vehicle and beaten by three military police officers. It is said he was subsequently taken to a police station. He allegedly underwent an official medical examination which reportedly registered soft tissue lesions consistent with the allegations. The *corregedoria* of the military police is said to have opened an administrative inquiry about the incident. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

259. **José Oliveira Rocha da Silva**, detained at the José Chaves Penal Colony in Natal, was reportedly injured by military police officers on 12 July 1998. Military police officers allegedly told prisoners to get back into their cells and some of them allegedly resisted. Three police officers reportedly shot at them to intimidate them. José da Silva was allegedly hurt by a bullet in his neck. He was reportedly taken to the Santa Catarina Hospital. According to the information received, he underwent an official medical examination. A judicial inquiry was reportedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

State of São Paulo

260. **Luciano Gomes Chacon**, detained at the 11th district police station at the time of the interview with the Special Rapporteur, had reportedly gone to the traffic authorities to renew his driver's licence around the end of April 2000. From there, he was reportedly brought to the 11th district police station, where he was allegedly forced to sign a statement that he was guilty of assault without a weapon. The police reportedly hit him with iron bars and wooden sticks on his back and legs, punched him and slapped him in the face. He was said not to have been allowed to read the paper he was signing. The victim of an assault was reportedly forced to say that Luciano Gomes Chacon had committed the assault. At the time of the interview, on 27 August 2000, marks compatible with his allegation, such as a scar on his back, were still visible.

261. **Valdemar Lopes Leitaó**, detained at the 11th district police station at the time of the interview with the Special Rapporteur on 27 August 2000, was reportedly arrested in March 1999 for having killed a man accused of rape who was allegedly waiting for Valdemar Lopes Leitaó's daughter. The police reportedly approached him in a vehicle at high speed and shot him in the upper leg. The police is said to have brought him to the *delegacia* for homicides (DHPP)/Deaga in downtown São Paulo, to have handcuffed him with rubber, to have made him kneel down and to have severely beaten him. He was reportedly made to sign a statement taking responsibility for other murders. In court, he was reportedly considered a re-offender. Five days

after the beating, a medical exam was allegedly carried out, during which he explained that he had been beaten. He was reportedly waiting for a second forensic examination to take place.

262. **Carlos Augusto Carvalho Oliveira**, detained at the 11th district police station at the time of the interview with the Special Rapporteur on 27 August 2000, was reportedly arrested on 25 October 1999 on his way to a dental appointment, on accusation of robbery/assault. He was said to have been taken to the 11th district police station, where he was reportedly beaten, kicked on his left leg until it swelled up and kicked in the chest until he nearly vomited blood. Four days later, he was allegedly taken to a medical examination, still bearing several marks of the beatings. He reportedly explained to the doctor everything that had happened, but did not know whether she noted everything down. He was allegedly sentenced to five years and four months in a half-open regime, and is said to be appealing the judgement.

263. **Ary Holando dos Santos Pereira**, detained at the 11th district police station at the time of the interview with the Special Rapporteur on 27 August 2000, was reportedly approached and arrested, together with two other men, by four police officers from Depatri at 7 p.m. on 1 August 1999 on his way from work. He was allegedly taken to Depatri and accused of having stolen meal vouchers, which he denied. The police officers reportedly punched him with their fists on his ears and face to make him sign a confession to the theft, which he allegedly signed. Fifteen days later, four police officers from Depatri allegedly beat him again for about four hours in order to make him sign another confession, which he reportedly did not sign. He is said to have been sentenced to 12 years in prison for a crime he denies having committed.

264. **David Barbosa da Silva**, detained at the 11th district police station at the time of the interview with the Special Rapporteur on 27 August 2000, used to live in the street and was reportedly suffering from bronchitis and pneumonia. He had reportedly gone to the mayor's office to obtain a registration card on 9 August 2000. In a restaurant on the way, a minor who he knew and who had reportedly stolen a watch, is said to have started talking to him. A police officer allegedly came up to them, let the minor go and arrested David Barbosa da Silva. He was reportedly brought to the 11th district police station, where he was placed in the investigation room. A police officer is said to have pointed a gun at his waist and stated that he would cripple him. Several police officers reportedly punched him four times on the back, hit him with a night stick rolled in rubber material and an iron bar, and slapped him twice. As a result of the torture, the right side of his back reportedly swelled up. He was said to have been made to sign a statement, which he was reportedly not allowed to read, that he had assaulted and misled a minor. The officers reportedly said to him that if he did not die from bronchitis and pneumonia, they would "take a decision about his fate". As a result of the beating, he reportedly vomited blood all night. He is said not to be represented by a lawyer. A female lawyer who had gone to see him on 9 August 2000, was reportedly denied access to him.

265. **Washington Pintos de Godoy**, detained at the 11th district police station at the time of the interview with the Special Rapporteur on 27 August 2000, reportedly contracted HIV in a penitentiary in 1998, for which he is said not to receive any treatment. In the previous three months, he is said to have been transferred from the 6th district police station, to the 35th, then to the 85th, from there to the 100th and finally to the 11th district police station. Previously, he had reportedly been transferred to an agricultural colony, from which he escaped. Fifteen days later, he reportedly arranged a medical examination. On 30 March 2000, he was reportedly forced to

sign a statement that he had committed a crime contrary to article 157 in the Canbusi section of the 6th police district. The police allegedly found a witness who was willing to implicate him. He was said to have been asked to pay 30,000 reais to be released, which he did not pay. He was allegedly beaten all over his body with iron tubes, baseball clubs, wooden sticks and chains by four military police officers for one and a half hours. They reportedly stopped the beatings because his wife arrived. Washington Pintos de Godoy is said to be bringing a court case with regard to having contracted HIV in prison.

266. **Daniel Rocha de Souza** was reportedly arrested at the end of June 2000 and brought to the 11th district police station in São Paulo, where he was allegedly beaten for two and a half hours by police officers, inter alia with an iron bar on his right leg, and slapped and punched in the face. As a result of the treatment he was subjected to, he signed a confession. Around 1 August 2000, his brother **Elson Oliveira de Souza** reportedly came to visit him and was allegedly searched in front of a witness by the police, who are said to have found nothing. He was then nevertheless reportedly denied permission to see his brother. When he asked the police why his brother was not allowed to receive a visit, the police are reported to have taken him to a room upstairs, hit him with iron bars and planted drugs on him. He was also said to have been hit on the back for one hour. As a result, he allegedly signed a confession and was detained in the same cell as his brother.

267. **Jairo Justino de Oliveira Junior** was reportedly arrested on suspicion of armed robbery in 1993 by two military police officers who took him to the 89th district police station in São Paulo, where he was allegedly forced to sign a confession after having been subjected to electric shocks on his genitals. He is believed to have paid 7,500 reais in order to be released seven days after his arrest. He was reportedly re-arrested on 9 April 2000 in Guraprianga, São Paulo city, and taken to the 100th district police station. Upon arrival at the police station, he was punched by two military police officers in the thorax and stomach. It is believed that he signed a confession under threat of being further beaten otherwise. He reportedly spent two months in this police station before being transferred to the 11th district police station of Santo Amaro. He was asked to go to the *delegado's* office where he was asked to sign other confessions and threatened with being beaten again. He reportedly refused to sign any new confession.

268. **Anderson Roberto Neides Ferreira** was reportedly arrested by military police officers on the street in Santo Amaro on 22 February 2000 on suspicion of armed robbery and illegal possession of firearms. At the time of arrest, he reportedly tried to run away. When he was re-arrested, he was allegedly kicked and beaten with the butt of a revolver, especially on the head. According to the information received, he was taken in a military police car to the 11th district police station of Santo Amaro. He was then allegedly beaten by two military police officers in the presence of a civil police officer. He reportedly only confessed to possessing a gun. He is said to have been seen by a magistrate only three or four months after his arrest. He is believed to have complained about the torture he had allegedly been subjected to to this magistrate, who did not react.

269. **Alexandre Santana Itom** was reportedly arrested in flagrante attempting a robbery on 10 July 2000 by four civil and military police officers and was taken to the 11th district police station. According to the information received, he was shot in the stomach at the time of arrest

and severely beaten with iron and wooden bars and a wooden baseball bat at the police station in the *delegado's* office. As a result, his knee is said to have been broken. He was later given medical treatment for the shot, but was denied medical treatment for his knee by the police. It is believed that police officers signed confessions on his behalf. At the time of the interview (27 August 2000), his knee appeared to be dislocated. It is believed that his lawyer filed a request for *habeas corpus*. On 11 August, he reportedly saw a judge, to whom he complained about the torture he had allegedly been subjected to and who is said to have called for a medical examination.

270. **Francisco Andrade Nascimento** was reportedly arrested on 18 June 2000 on the street in the Santo Amaro neighbourhood by military police officers on suspicion of armed robbery. According to the information received, at the time of arrest he was beaten and thrown onto the floor, where he was kicked in the ribs. A police officer allegedly stepped on his hands. He was reported to have been taken to the 11th district police station where he was reportedly forced to sign a confession under threat of being beaten again. His lawyer is said to have arrived one hour after he signed the confession. One month later, he was reportedly taken to court, where he did not complain about the torture for fear of reprisals since police officers were always present with him in the courtroom. He nevertheless is believed to have complained to his lawyer. According to the information received, he was taken to court on two other occasions.

271. **Edson Barbosa de Lira**, aged 23, reportedly detained at the Depatri police district in São Paulo, was allegedly beaten with baseball bats, iron bars and a telephone book in 1999. As a result he is said to have sustained bruises all over his body and to have fractured his pelvis. The police is said to have stated that he had tried to escape and had fallen from the roof.

272. **E.M.C.**, a minor detained at the Unidade Educacional 10 of the Complexo Quadrilátero do Belenzinho was reportedly beaten on 15 February 2000 while being transported to the Youth Court ("*Varas Especiais da Infância e da Juventude*").

273. **A.M.F., A.F.L., C.O.A., E.S. and W.R.V.**, minors detained at the FEBEM in Itaquaquecetuba, were reportedly beaten on 23 October 1998 by employees of the Foundation. It is reported that they were beaten as a form of punishment. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

274. **Devanir Aparecido da Silva** was reportedly beaten at the 1st district police station in Sertãozinho on 20 July 2000. According to the information received, he was tied to an iron pole in the station courtyard as a reprisal for having verbally abused the police chief. He reportedly had his shirt taken off and was obliged to stand for one hour. He reportedly had cold water thrown over him and was whipped about 12 times. A lawyer allegedly witnessed the incident and the *corregedoria* of the police was allegedly informed about the case.

275. **Juvenile detainees** detained at the Unidade Educacional 01 FEBEM in São Paulo state were reportedly engaged in a rebellion on 12 June 2000. According to the information received, 15 employees of the unit, some of them wearing masks, entered the unit and beat the teenagers using pieces of wood and iron bars. The alleged aggressions reportedly took place in the courtyard and inside the inmates' cells. It is said that most of them were severely injured.

Aginaldo Martins Alves, Felipe de Oliveira de Andrade, Pedro Feitosa Leite Melo, Rafael Oliveira Santana, Saulo Fernando Castanho Teles, André Luis Pereira, Alex Martins Mendes, Marcelo Jesus de Oliveira, Silvano Lemos Costa, Cleverson Alves Guloni, Paulo Ubiratan Andrade Meira, Diego Casadia, Deivisson Roberto Souza Lima, Michel Alexandre de J. Moran, Emerson Alberto Cabral dos Santos, Anderson Luis Chavernue, Alisson Veras Valdevino, Edimilson Caboclo do Nascimento, Leonardo Soussona do Nascimento, Henrique de Oliveira e Castro, Alex Sandro de Oliveira, Vagner Souza de Macedo, Tarcisio André Candido Xavier, Rodrigo dos Santos, Ricardo Malinosqui do Nascimento, Marco Aurélio Rodrigues Souza, Luciano Luis Gonçalves, José Lincon Pereira da Silva, Wanderley Marcolino Ferreira, Geneilson Vieira de Souza, Felipe Tadeu Pedroso Celestino, Rafael de Jesus Cipriano, Elenaldo Silva Cavalcante, Paulo Alessandro Alves, Vagno Moreira Silva, Rafael Correa Druciak, Everton Luis Carvalho, Washington Luiz Pereira, Israel Mandes de Oliveira, Wernerson Felix da Silva, Romualdo Antonio de Angelo, Marcelo Silva de Lima, Fernando Almeida de Sá, Moisés Ferreira da Silva, Gilvan Araújo Santos and Felipe Augusto Alves da Fonseca allegedly underwent official medical examinations, which reportedly revealed lesions consistent with the allegations. An inquiry was reportedly opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

276. **Antonio Rodrigues dos Santos** and **Aldo dos Santos**, both councilmen, were allegedly arrested by military police officers during a political demonstration in front of the court in Diadema on 27 February 1998. They were reportedly taken to the Diadema 1st district police station, where they were verbally abused and beaten. Antonio Rodrigues dos Santos was reportedly hit on his genitals with a wooden stick and had his leg broken during the beating. He was later allegedly transferred to the police station in Serraia. The two men were reportedly released some hours later. According to the information received, Antonio Rodrigues dos Santos was taken to an emergency hospital and underwent an official medical examination. The *corregedoria* of the military police was reportedly informed about the incident.

277. **Paulo Ezequiel Manoel** was allegedly arrested in January 1998 and taken to the 44th district police station in São Paulo. He reportedly died three days later. According to the information received, the police said he killed himself by throwing himself at the wall of his cell. Medical examinations were reportedly performed and bruises allegedly found all over his body, wounds on his head and a violet mark on his right eye.

278. **Marcia Nogueira do Nascimento** was allegedly arrested by four military police officers on 5 August 1994 without being informed of the grounds for the arrest. She was allegedly beaten and taken to DEIC. She was reportedly denied access to a lawyer. She was subsequently allegedly taken to Assis police station, where she was reportedly forced to sign some papers. It is believed that she was placed in a cell, told to undress and searched. On the following day, she was reportedly interrogated. She is said to have been given electric shocks several times and to have been hit with an iron bar on her arms and legs. The police officers allegedly tried to hang her and torture her on the "parrot's perch". As a result of the torture, she reportedly lost consciousness. On 7 August 1994, she was taken out of her cell and beaten again. She was allegedly tied to a chair and gagged with a cloth in order to prevent her from shouting. She was reportedly burnt with cigarettes, and thrown on the floor. Some police officers are said to have stepped on her back. She was allegedly again given electric shocks to her mouth and vagina.

Her sister was allegedly forced to accuse her. According to the information received, she was beaten for five days. As a result of the torture, she reportedly could not walk or talk, and reportedly had a serious head wound. She was reportedly forced to sign a confession and was placed again in the cell. After eight days she was reportedly visited and treated by a doctor. She was allegedly later transferred to another jail. According to the information received, she was sentenced to 26 years in prison 11 months after her arrest. On 14 August 1997, she was transferred to Tatuapé prison in São Paulo. A judicial inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

279. **Silvio Tadeu Alonso Leoni**, detained at the Parelheiros prison in São Paulo, was reportedly beaten by 20 prison employees with baseball bats and iron bars on 23 November 1999 as a reprisal for an escape attempt at the prison. As a result of the beating, he is said to have lost consciousness. On the following day, he was allegedly beaten by about six employees. According to the information received, he had a deep wound in his head and 17 lesions all over his body as a result of the beatings. On 24 November, he was allegedly transferred to the House of Detention in São Paulo (Carandiru prison). The next day, he was reportedly taken to the infirmary, where he received four stitches in his head. He reportedly underwent an official medical examination, which revealed lesions consistent with the allegations. The *corregedoria* of the prison system is said to have opened an investigation into the case. The proceeding was reportedly closed on the grounds that the “irregularities” that had allegedly occurred at the Parelheiros prison could no longer be looked into as the prison had been de-activated on February 2000. Despite a reported request by the state’s attorney, no police inquiry is said to have been opened.

280. **Daniel Lino Cardoso**, detained at the 26th district police station in São Paulo, was allegedly shot on 9 March 1999 by police officers from the Armed Group for the Prevention of Thefts and Robbery. According to the information received, the officers arrived at the police station after an alleged escape attempt, invaded the cells and threw out the detainee’s sheets and personal belongings. The civil police Special Operations Group (GOE) is said to regularly visit this district. According to the information received, on these occasions, prisoners are beaten and obliged to sing derogatory songs and have their personal belongings and food thrown out. Officers allegedly shoot against the lock-up. It is said that these visits follow the same pattern: officers form a Polish corridor composed of five men on each side carrying damp cardboard tubes. Officers allegedly force the prisoners to run through the Polish corridor and hit them as they pass.

281. **Wilton Oliveira Santos**, a computer analyst, was reportedly arrested on 29 May 1999 in São Paulo. He was allegedly taken to the 75th district police station where he was kept in an isolated room. According to the information received, he was later taken to a hospital in a coma. The police officers are said to have told the hospital officials that he had tried to commit suicide by suffocating himself. His relatives reportedly denied that he had ever showed signs of depression that might have led him to perform a suicide attempt.

282. **Gilberto Xavier Pinheiro**, detained at the 41st district police station in São Paulo, was allegedly beaten by two civil police officers with an iron bar on 14 January 1999. According to the information received, an inquiry was opened in March 1999. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

283. **João Nepomuceno de Moura, Valdir da Fonseca Filho, Joel da Silva, Adriano Augusto Toranello, Cláudio da Cruz, Manoel Messias dos Santos Mota, Antonio Carlos Rosa, Carlos Luis Pereira Diniz, Claudinei Silva Santos, Aparecido Manoel, José Carlos Ferraz, Edilson dos Santos de Souza, Carlos de Jesus, Mario Siqueira Mortessi, Edilson Donizete Galindo, Nilson Lopes de Moura, Adilson Silva de Oliveira, Alexandre Soares Padro, Edson Rosa, João Raimundo, Sérgio Wagner, Wanderlei Batista Martins, José Augusto da Silva, Luiz Carlos Santos, Romildo Moreira da Silva, Luis Carlos Pereira, Carlos Araújo de Oliveira, Alexandre Alves, Zenildo Costa, João Gilmar Mendes da Silva, Wilson Felix, Reinaldo Bezerra Duarte, Marcelo da Silva, Walmir de Melo, José Antonio Ramos, Dimas de Lima Vicente, Cícero Fidelis da Silva, Antonio Carlos de Matos, Vilson Custódio, Silvio Silverio Guimarães, Antonio Alves Rodrigues, Joselito Ramos da Costa, Carlos Roberto da Silva, Luiz Vieira da Silva, Cesar Roberto de Moraes, Reinaldo Ponciano, João Luiz Santana, Eduardo Pedro dos Santos, Sérgio Luiz Soares, Agnaldo Antonio da Silva, Oscar Manoel da Cruz, João Batista Viana, Cláudio Ernesto, Helio Massi Jr., João Ribeiro de Arruda, Pedro Antunes da Silva, Sandro Luiz Marinho, Givaldo Viera da Silva and Robson Miguel de Lima**, detained at Dr. Javert de Andrade Agricultural Penal Institution in Sao José do Rio Preto, were reportedly severely kicked, punched and beaten with clubs by military police officers who were allegedly conducting a search in the detainees' cells on 8 March 1999. According to the information received, women and children who were visiting the detainees were submitted to degrading searches.

284. **Herberto da Silva Batista** was reportedly arrested in May 1999 and taken to the 85th district police station in São Paulo. During the court hearing, he allegedly fully confessed his participation in a crime. He was reportedly taken back to his cell and beaten by fellow inmates as a reprisal. His family is said to have increasingly noticed marks of severe ill-treatment, such as injuries on his face and burn marks around his mouth and eyes, probably caused by cigarettes. He allegedly started exhibiting psychological problems and refused to speak to family members or fellow inmates. Police officers were said to have been aware of the situation and had not transferred him to another cell.

285. **Eduardo Alves Pinheiro** was reportedly arrested by eight civil police officers while driving his car on 17 April 1999. He had allegedly escaped from the 5th district police station in São Paulo seven months earlier. According to the information received, the police officers took him to a forest area near the city, where the chief of the 5th district police station joined the group. Eduardo Alves Pinheiro was reportedly kicked several times in the head by the police officers, including by the chief of the 5th district police station and a police chief from Depatri. Eduardo Alves Pinheiro was reportedly driven to the Mandaqui hospital by the police officers, who allegedly told the doctors that he had been involved in a car accident. He was reportedly located by his relatives at Depatri, where he is believed to have been beaten again. At the lock-up, he was allegedly hung on a "parrot's perch" and subjected to electric shocks. On 18 April, his relatives allegedly requested the *corregedoria* of the civil police to initiate an official medical examination, which was allegedly refused. According to the information received, his family made the same request to the Department of Police Investigations. Officials at the Department reportedly replied that a medical examination could not be performed as they did not have enough vehicles to transfer him to a medical centre. Five days later, the Prison Ministry allegedly requested an official medical examination. It is said Eduardo Alves Pinheiro and his wife were subsequently examined.

286. **Valmir Higino da Silva** was reportedly arrested on 14 January 1998 and taken to the 3rd district police station in São Paulo. His family allegedly had no contact with him after his arrest. At the police station, he was reportedly attacked by other prisoners. He is said to have been transferred to another cell, where he was also beaten by his fellow inmates. A police officer also allegedly kicked and stepped on him. He was reportedly taken to a hospital by the Armed Group for the Prevention of Theft and Robbery. He was reportedly found dead on 18 January at the 3rd district police station. A police inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

287. **Alexandre Ribeiro da Silva, Claudionor da Silva Lago, Eduardo de Queiroz Manoel, Eduardo José Cordeiro, Francisco Ramos de Andrade, Jaime Barbosa de Paula, José Rubens Barbosa da Silva, Marcelo Chavez da Silva, Mário Oliveira Santos, Paulo Cesar de Souza Martins, Robério Calisto Pereira, Denilson Silveira de Paulo, Edgar Alves Braga, Edson José da Paixão, Edson Julio Penna Vieira, Francisco Rodrigues Monte Agudo, Gilson Gomes da Silva, Ivanaldo Silva de Oliveira, Jarbas José Rodrigues, João Roberto Pereira Santos, José Rodrigues dos Santos, Marcos Santos Cardoso, Matias Gomes da Silva, Mauricio Mariano, Nilton Belilio da Silva, Samuel dos Santos Cardoso, Sebastião Luiz Teixeira, Alequison Silva Medeiros, Aluísio Gomes da Silva, Antonio Rodrigues da Silva Filho, Aparecido José Sartori, Claudio Lacerda Magalhães Jr., Daniel Vinícius Canonico, Edivaldo Nunes Pereira, Edson Aparecido de Brito, Fernando de Carvalho Pereira, Gilson José da Silva, José da Silva Neto, José Luiz Araújo de Rosa, Juracy Odair, Luis Arlindo Lerenó Filho, Luis Bonifácio da Silva, Luiz Osmar dos Santos Jr., Manuel Pedro da Silva, Paulo Antonio Sales, Paulo Vieira de Moraes, Sérgio de Oliveira Silva, Sérgio Esponton Gaspar, Valdemar Gomes, Valdir Marques da Cunha, Vicente da Costa, Agnaldo Antonio da Silva, Anderson de Oliveria Lopes, Angelo Eduardo de Lucena, Cícero José Pinheiro, Daniel da Silva Oliveira, Davi Rodrigues Lopes, Fabiano Padro de Oliveira, José Cicero Batista de Melo, Paulo Ramos Favale, Dalmir Lopes de Aquino, Davi Rodrigues Lopes, João Batista Queiroz, Leandro Arantes Marins, Sérgio Wilson Campos, Antonio Pereira da Silva, Beline Silva Melo, Denis Marcelo Moreira, Idalmo Ferreira da Cruz, Almir David das Neves, Antonio Fernandes da Silva, Dimas Camargo Josias, Edilson Ferreira Moreira, Jailson Teles Sobrinho, José Carlos Diniz, Renato José de Souza, Sérgio Robson da Silva, Valdivino Alves de Souza, Claudio Teodoro Aires, Antonio Estanislau dos Santos, Carlos José Costa Neto, José Carlos Nunes, Marcos Passos, Sérgio de Oliveira, Teodoro Soares dos Santos, Adalberto Ribeiro dos Santos, Claudio Cardoso, Cristiano Gonçalves de Souza, Djalma Freire dos Santos, Everaldo Paixão, Georgiano dos Santos Marinho, Gilson Gonçalves da Silva, Silas Candido Domingues, Eduardo Valentim Silva, Edson Félix dos Santos, Fábio de Ribeiro, José Joseildo Batista, Amilton Silva, Francisco Carlos Martins, Francisco Carlos do Nascimento, Francisco Edmilson de Almeida, Geraldo Marco Aurélio de Oliveira, Manoel Alves Jr., Marcelo Ribeiro Souza, Robson Gonçalves de Sá, Alexandre Joaquim dos Santos, Antonio Carlos Rafael, Arnaldo Vitor Batista, Joacir Barreiro Fonseca Jr., José Ribeiro da Silva, Ricardo da Silva, Wellington Vasconcelos dos Santos and Sérgio de Oliveira, detained at the Depatri police station in São Paulo, were reportedly severely beaten by police officers of the Armed Group for the Prevention of Theft and Robbery on 1 February 1998. According to the information received, a "Polish corridor" was formed by police officers carrying iron bars, pieces of wood and guns. Officers allegedly forced the prisoners to run through the corridor and hit them as they passed. Official medical examinations performed three days later reportedly revealed marks of**

beatings on 107 detainees. Photographs were allegedly taken of the lesions on the detainees' backs, arms and legs. A civil police inquiry was reportedly opened. According to the information provided, none of the police officers involved in the incident was removed or punished. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

288. **Clener Mandis Barbosa**, detained at the House of Detention in São Paulo, was allegedly beaten on 19 February 1998. According to the information received, prison guards wearing masks entered his cell, destroyed his personal belongings and beat him. He was allegedly sent to the medical section of the House of Detention, but was not seen by a doctor.

289. **Olivio Leivas de Araoujo**, an inmate in Carandiru, who was said to be suffering from diabetes, was reportedly stung by an insect in June 2000, causing a major open infection to his whole lower leg. He is said to have received no medical attention except a bandage and saline lotion for the two days before the Special Rapporteur's interview with him on 25 August 2000. For the previous nine days, he had been interned in the medical wing. The medical records indicated that he had taken ampicile on 21 August 2000. According to the nurse, he was said to be receiving antibiotics and was suffering from a vascular problem. The medical report indicated that he had received medical treatment in January 2000 and that he had received antibiotics on 19 June. On 11 August, the doctor reportedly ordered a 10-day course of antibiotics, which he is said to have received from that date and which was noted on his medical record from 18 August. On 17 August, he was said to have been transferred to the medical wing. According to the doctor, he had not received any insulin for the previous five months as his blood sugar levels had dropped. According to the nurse, he was in need of vascular surgery, and a request had been made for an appointment, but the date had not been arranged because of security reasons.

290. **Humberto Mastrorosa, Antonio Carlos Rosa, David Guimarães Pinheiro, Evandro José do Nascimento, Daniel Della Rosa, Alexandre Alves Martinez, Carlos Ayrton Fernandes, Gerson Lomas, Mário Fideles Aparecido da Silva, Genilson dos Santos, Silvio Lopes, Douglas Vieira dos Santos, Fábio Moreira, Edson Alberto da Silva, Márcio Soares dos Santos, Everaldo Severino Felix and João Batista Filho** were allegedly beaten by police officers of the civil police Special Operation Group in the 34th district police station in São Paulo on 16 March 1998. According to the information received, the police officers invaded the cells after an alleged escape attempt. The police officers reportedly told all the prisoners to take off their clothes and to leave their cells, beat them with baseball bats and shot into the air. One hundred and sixty detainees were allegedly beaten. Detainees reportedly presented marks and lesions as a result of the incident, but were not allowed to undergo an official medical examination.

291. **Wanderley Gonçalves de Oliveira**, a government employee, was reportedly approached in the street by two military police officers on 2 June 1998 in Franca. According to the information received, he was accused of smoking marijuana. The police officers allegedly body searched him, but found nothing. It is reported that the police officers hit him with a club on his back, neck and kidneys. He allegedly underwent an official medical examination. A military inquiry was reportedly opened but subsequently closed because of an alleged lack of evidence.

292. **Márcio Anderson Dias**, detained at the 101st district police station in São Paulo was allegedly beaten by police officers on 23 February 2000. An official medical examination has reportedly been requested.

293. **Eduardo Pedro da Costa**, detained at the Americana jail, was reportedly taken from his cell to the courtyard together with other detainees from his cell block on 2 June 2000. It is alleged that he had initiated a dispute with a prison guard, who had hit him and had injured his head. According to the information received, the military police arrived at the jail and formed two parallel lines (a "Polish corridor") in the hallway between the courtyard and the cell block. The police reportedly ordered the detainees to remove their clothes and run through the Polish corridor whilst they beat them with clubs, iron bars, a short whip and steel razors. According to the information provided, the detainees were forced to lie down on the ground in the courtyard and were beaten again. The police officers reportedly doused them with water containing vinegar and salt, increasing the pain on their wounds. During the beatings, officers allegedly ordered the detainees to sing various self-deprecating phrases. The jail director was reportedly present during all the beatings. Eduardo Pedro Costa is said to have been singled out and beaten for approximately two hours with razor wire, clubs, bamboo sticks and iron bars. He was allegedly removed to a hospital the same day. According to the information received, he wavered in and out of consciousness and consequently was unaware which hospital he had been in. He is said to have been transferred from the hospital to the jail in Santa Barbara d'Oeste and later transferred back to the Americana jail. **Wilson Pereira da Silva**, another detainee, was reportedly whipped with various metal cords, metal bars, pieces of wood and bottles.

Cristiano Rodrigues dos Anjos, also a detainee, was reportedly beaten with whips, bottles, iron bars and clubs. He was allegedly transferred to another prison a week later, together with another four detainees. There they are said to have been beaten again severely by the military police with clubs and wooden sticks. Detainee **Luis Claudio Bonfim** reportedly had his arm broken with an iron bar. He was allegedly examined on 2 June 2000 in a hospital. Detainee **Daniel Bueno** is believed to have been severely beaten with whips, causing over 50 lesions. It is also reported that he was hit on the head several times, causing him to lose all sensation for several minutes. According to the information received, photos of his body showed extensive skin discolouration over most of his shoulders, back and buttocks. Some days after the beating, his lawyer visited the jail and reportedly demanded that an official medical examination be performed. The sectional police chief of the Americana jail reportedly visited the jail on 14 July 2000 and conducted interviews with the director and several detainees. The sectional police chief allegedly ordered the removal of an investigator and a prison officer and opened an internal inquiry. On 31 July 2000, several detainees in the jail were said to have been observed to bear multiple scars.

294. On 30 January 2000, some mothers who were visiting their sons in Saint André FEBEM institution saw some wooden and iron sticks wrapped in a piece of cloth covered with blood. The press is said to have been called and to have video-recorded the scene. FEBEM authorities are reported to have collected the sticks and to have indicated to the press that they had been brought in by the detainees' mothers. It is believed that a large number of inmates of Saint André were observed to have suffered broken teeth, arms and legs at that time. According to the information received, FEBEM guards (*monitores*), some masked, had further beaten the minors in their sleep the following night.

295. **S.A.**, aged 18, was reportedly transferred from Carandiru, where he had been detained in the Criminological Observation Centre (COC), to the Franco da Rocha detention centre at the beginning of the summer 2000. According to the information received, he had been first detained in 1997, but had managed to escape during a rebellion. Upon arrival at Franco da Rocha, he was allegedly beaten by coordinators and monitors who were accompanied by agents from the surveillance unit (UAP) and from the educational unit (UE). He and other detainees were reportedly told to take their clothes off and were severely beaten with wooden sticks and metal bars filled with cement. This allegedly happened several times after his transfer to Franco da Rocha and to have always taken place at night. The director is reported to have had witnessed such treatment many times and not to have ever tried to stop it.

296. **C.G.D.**, aged 17, was reportedly held in the unit of Franco da Rocha where a revolt took place in the summer of 2000. He was subsequently allegedly detained in a cell with a small window where he was locked up 24 hours a day in a cell without mattresses with 10 other detainees. According to the information received, about 10 monitors and coordinators and 2 UAP agents went to the cell to check the detainees and beat them up. It is alleged that C.G.D. was kicked on the face, stepped on over the hips and that his head was hit against a wall. All detainees in the wing where the revolt is supposed to have started were said to have been threatened with metal bars and beaten. After this incident, C.G.D. was allegedly subjected to constant humiliation and death threats. It is reported that his request to receive medical assistance was denied.

297. **Gilberto Ferreira Da Silva** was reportedly arrested on 24 August 2000. He was allegedly caught in flagrante by civil police and military police officers. According to the information received, he was kicked on his face while lying on the floor by three military police officers before being taken to a police station. As he was bleeding, he was reportedly later taken to a hospital by the officers who had arrested him. During the medical examination a doctor asked the police what had happened and a police officer allegedly replied that he had just been arrested. It is reported that he was taken to the 11th district police station in São Paulo where he signed a confession (*nota de culpa*).

298. **Jorge Miranda do Nascimento** was reportedly arrested in November 1999 at his home. It is reported that the police entered the house and as he was not present took away his wife until he returned. He was allegedly taken to the 47th district police station in São Paulo where he was beaten with wooden sticks and metal bars by four or five police officers for some two hours and kicked on his face and on his feet until he signed a confession. It is believed that he was threatened.

299. **F.G.L.**, aged 15, was reportedly arrested on the street by three members of the civil police on 24 May 1999 in São Martens, allegedly caught in flagrante delicto committing a car theft. He was reportedly taken to the 49th district police station, where it is believed that he was beaten, in particular in the stomach, with pieces of wood and with their hands by the policemen and the owner of the car. He is said to have then been forced to sign a confession. He was reportedly brought before a prosecutor two days later and complained to him about the ill-treatment he had allegedly been subjected to. The same day, he is said to have been seen by a judge. The lawyer he had been assigned did not mention the fact that the confession had been extracted under duress. According to the information received, Fabio Gomez da Lima complained directly to the

judge, who is said not to have reacted. His mother was reportedly informed of his arrest at 2 a.m. the following morning. When she arrived at the police station, she is said to have been denied access to her son, who was being transferred to the FEBEM *Unidade de Accolimento*, where he stayed for five days. It is reported that he had to remain silent, his hands behind his head. It is believed that each time an adolescent broke the silence rule, he was beaten. According to the information received, his mother only saw her son five days later at the BRAZ. Despite the fact that she could not speak to him in private, she reportedly noticed that he was seriously distressed, pale and had a smashed face. He reportedly spent the following eight months between Tatuapé and Saint André prisons, being transferred each time a revolt occurred. It is believed that each time, he was severely beaten, in particular on the legs with wooden sticks. During his detention in Tatuapé, he was allegedly also held in solitary confinement for 15 days, during which time, he was reportedly beaten at each guard duty shift. On one occasion, he was reportedly transferred to a hospital, where it is believed he spent three days, with swollen and bruised arms and shoulders and a wound on his foot. Since April 2000, he is said to be detained at Franco da Rocha. According to the information received, he was beaten after the revolt which occurred there in mid-August 2000. It is reported that he was seen with bruises on his arms. It is believed that the marks result from the fact that he tried to protect his body from the beatings. The length of his sentence is not known. Furthermore, his mother is said to have spent days and nights in front of FEBEM institutions with other detainees' mothers, and to have been harassed and humiliated by guards and police officers.

300. **Nelinda Martin Seli**, sentenced to five years' imprisonment, was reportedly transferred from Cadellon police station to Tatuapé women's prison in April 2000. It is reported that she has health problems related to menopause and that she is receiving no treatment. According to the information received, she has lesions on her pelvis and femur but, because of alleged lack of means of transport, she cannot go to hospital.

301. **L.R.A.L.**, aged 17, was reportedly arrested by members of the military police on Paia Grande beach on 21 March 1999, allegedly caught in flagrante delicto committing armed assault. His mother was reportedly informed the following night. He reportedly spent 12 days in the police station headquarters of Vila Tupi, commonly known as Sede. His mother is said to have been denied access to him, but was able to give him cigarettes and cookies through the policemen. She reportedly saw him for the first time in *Imigrantes* in early April 1999. According to the information received, he was very weak, half naked and cold; he could not speak and had to keep his hands and head down during the entire visit. It is reported that the FEBEM authorities decided that he was a psychopath, despite the fact that his mother informed the relevant authorities that her son was on a drug-withdrawal programme. In July 1999, he was transferred to the Internato Nova Conceição after having allegedly been seriously beaten. He was reportedly transferred to several different places of detention during the following months and was allegedly beaten on each occasion. He was reported to have finally been transferred to the Instituição Claudio Amansio, where he is treated for his drug addiction. It is believed that he was sentenced for an undetermined period on charges of armed assault. The judge who ordered his transfer to the Instituição Claudio Amansio reportedly decided that he could stay there for one year only. Fears have been expressed that once returned to a FEBEM institution, i.e., in February 2000, he would begin to take drugs again as it is reported that drugs are widely circulating in these institutions.

302. **C.O.S.**, aged 17, was reportedly arrested by members of the civil police on the street in San Martens in February 2000 after having escaped 14 months previously from *Imigrantes*. He had reportedly been convicted early in 1998 on charges of armed assault. At the time of his first arrest, he was reportedly taken immediately from the police station to Pinheiros, where he was seen by his mother with bruises all over his body; he was said to be urinating blood at that time. At the request of his mother, he is said to have seen a doctor the day following his arrival at Pinheiros. After some three months of detention, he is reported to have been transferred to Tatuapé at night. His mother is said not to have been informed of this transfer. During the two months he spent in Tatuapé, his mother allegedly saw him on several occasions with bruises on his body. It is believed that he was, in particular, beaten with a wet cloth. He was then transferred to Saint André, where a revolt had occurred in June 2000. He was said to have been in such a state of shock that he was not able to speak the first time his mother saw him after the revolt. He allegedly had several cuts, in particular on his legs and ears, and had had his head banged against the bars. According to the information received, he had also been forced to kneel on a firecracker and had severe injuries on his knees as a result. He was then transferred to Pinheiros, where at the beginning of August his arm was allegedly broken by prison monitors. His mother is said to have complained, including to a judge, and he eventually received medical treatment. An internal inquiry is believed to have been initiated, the results of which were not known at the time the Special Rapporteur was informed of this case (23 August 2000). A medical certificate is reported to have been given to the FEBEM authorities. The judge in charge of the case is believed to have asked for a report on the incident from the social worker working with C.O.S.

303. **Carlos Augusto Carvalho Oliveira**, aged 27, was reportedly arrested by members of the civil police in a bus in Santo Amaro on 25 October 1999, on suspicion of assault. He was allegedly beaten with a rifle butt at the time of arrest and threatened with a gun. He was reportedly taken to the 11th district police station in Santo Amaro, where his statement was recorded by the head of the station, who then allegedly took him to a room where he was stripped naked, kicked in the stomach and legs, banged against the walls and his hands were stepped on. He is believed to have lost consciousness. Then, he was reportedly forced to sign a confession (*nota de culpa*). It is reported that his family was informed on the day of his arrest but that he was only able to meet with his lawyer after two days. A medical report indicating "light bruises" is said to have only been issued one week after his arrest. His lawyer reportedly filed a complaint for ill-treatment and asked for the medical report to be forwarded to the *corregedor*. It is believed that the officers allegedly responsible are still on duty, despite the fact that in early August 2000, Carlos Augusto Carvalho Amoro recognized them during a parade. He is said to have been convicted and sentenced to five years and four months in prison. At the time the Special Rapporteur received information on his case (23 August 2000), he was said to be still held in the same police station and to be constantly threatened by police officers. He had allegedly been beaten once when, with other detainees, he asked for the transfer of a sick detainee.

304. **Diego de Sena Medine**, aged 18, reportedly fell from the roof of one of the wings of Franco da Rocha during the 10 August 2000 revolt. It is believed that he fell from the roof while trying to avoid beatings from the masked guards with iron bars. According to the information received, he fractured his skull in the fall and was beaten with wooden sticks while lying on the ground. It is reported that the Franco da Rocha authorities indicated that he had been pushed

from the roof by another inmate. At the time of the visit to Franco da Rocha by the Special Rapporteur (24 August 2000), D.S.M. was lying in a clean bed with sheets. It was alleged that he had been transferred to an infirmary cell two days before the visit of the Special Rapporteur and that before, he had been detained in a very dirty cell without a bed or blankets. It was also reported that other sick detainees were transferred to another place of detention.

305. **Antonio Rodriguez**, a city representative of Diadema, was reportedly arrested on 23 February 1998 in front of the Town hall where he had had a meeting with the city council regarding the provision of water to some communities. The military police are said to have provoked a riot by insulting some of the demonstrators who were waiting outside the building to learn the result of the negotiations with the authorities. Antonio Rodriguez was allegedly beaten while he was handcuffed. He was allegedly grabbed by the penis and was kicked. Two other persons were said to have been arrested with him. He was reportedly beaten in the police car which was taking him to the 1st district police station in Diadema. At the police station, it is alleged that he was humiliated. According to the information received, before being transferred by military police officers to the police headquarters, his left ankle was squashed in the door of the police vehicle in which he was going to be transferred. Many people, including his wife, were said to have witnessed this incident as they were demonstrating outside the police station for his release. At the police headquarters, he was humiliated, threatened and thrown against the walls. Still handcuffed, he was reportedly then taken to the emergency room of the Diadema central hospital, where he was diagnosed as having a broken leg. The medical report is believed to have been taken by a police officer. He was then reportedly returned to the police headquarters, his broken leg in a cast. There, he was seated on a chair which was allegedly lifted in the air before being dropped. He started to give his version of the facts, including the police violence, to the civil police officer who was interrogating him. But he was then allegedly interrogated by three military police officers who were pointing their guns in his direction. At 3 a.m., he reportedly paid his bail and was released. His body was said to be covered with bruises and he underwent three operations on his broken leg. He was later accused of damage to public property, disobedience and disrespect towards the public authorities. According to the information received, he complained to the city council, the *ouvidor* of the military police, the Secretary in Charge of Public Security and various human rights institutions, to no avail. He reportedly did not file any formal complaint with the police because he was advised to wait to the end of the proceedings against him.

306. **Lucio Antonio de Carvalho** was reportedly arrested on 25 May 2000 in the Pacaembu neighbourhood by 15 military police officers from the 2nd district police and five officers from the DEPATRI. It is believed that he was arrested on orders from a lieutenant on accusations of extortion made by his former girlfriend, and was taken to the DEPATRI, where he was slapped on the face. Handcuffed in the back, he was then allegedly kicked and beaten by several officers, including the *delegado*. He was allegedly forced to sign a confession under threat. He was then reportedly put in a DEPATRI cell with 30 other detainees. Two days later, a detainee is said to have bought a firearm from one of the guards and a revolt began, but with no success. A few detainees are believed to have been seriously injured during the clash with the guards. An hour and a half after the end of the revolt, some 60 guards wearing masks reportedly entered the cells and, on orders from the chief of the lock-up (*carceiro*), began to beat all the detainees, who were stripped naked. They were forced to leave their cells one by one and were allegedly made to go through a cordon of guards who beat them with wooden sticks. They were then reportedly

made to face the wall and were beaten, in particular on the head, the ribs, the back and the testicles. He is said to have fallen unconscious on several occasions and to have been woken up by having cold water thrown on him or electro-shocks applied to him. He was allegedly taken to a separate room by seven hooded men and received electro-shocks on his penis. This is said to have lasted for more than 90 minutes, during which time he fainted on three occasions. According to the information received, he was taken back to his cell covered with blood. There, all the detainees were threatened by the *carceiro* with being killed and bullets are said to have been fired at the wall above their heads. The following day, he was allegedly taken to a separate room, where he was stabbed with a knife on the right arm and kicked in the face by men wearing hoods on which was written "GOE" (*grupo operacion especial*). It is believed that he was subjected to specific treatment after the revolt because he is a former well-known bodybuilder. On the following day, all the detainees were reported still to be naked in their cells and the cleaning women are reported to have refused to enter the premises if the detainees were not given decent clothes. They were reportedly deprived of food for the five days following the revolt. A day or two later, Lucio Antonio de Carvalho's lawyer is believed to have been denied access to him. On the following day, his lawyer was reportedly told by the guards that his client had been beaten by other detainees. Lucio Antonio de Carvalho was nevertheless able to speak to his lawyer, who is believed to have filed a complaint against the police officers. The same day, it is also reported that he fell shaking on the floor of his cell. During this entire period, he could allegedly not eat and was vomiting blood. At the time of the interview (25 August 2000), marks consistent with his allegations were still visible on his stomach, his right arm, on both knees and hands and on the back of his head. Pictures of his swollen penis and testicles were shown to the Special Rapporteur.

307. **Ronaldo Gaspar dos Santos** had reportedly been sent to the punishment cells of Pavilion Four, the so-called dungeon, two weeks before the visit of the Special Rapporteur (24 August 2000), allegedly for not having opened the door to a guard. According to the punishment cell registry, he was supposed to be held there at the time of the visit, but was said by the director of Pavilion Four to have been taken to court. After an hour or so of discussions, the director acknowledged that he had in fact been transferred to the State High Security Prison of *Carandiru* complex, where the Special Rapporteur immediately visited him. According to the information received, on the night of 22/23 August, he, and two other detainees had been taken out of the punishment cell and taken to Pavilion Five, where he was allegedly forced to sign a paper accepting his transfer to this pavilion where the so-called *seguros* are detained. He was allegedly beaten with iron bars for two hours by five guards from Pavilion Five. He was then reportedly taken to the punishment cells of Pavilion Five of which he gave a clear description, consistent with what the Special Rapporteur had been able to see during his tour of this section of Pavilion Five. At 2 p.m. on 23 August, he had reportedly been transferred back to the medical section of Pavilion Four where he was reportedly seen by a doctor who diagnosed a broken leg (left). With his leg in a cast, he was reportedly sent back to the punishment cells of Pavilion Five, before being again transferred to the punishment cells of Pavilion Four where he spent the night. According to the information received, at 9.30 the following morning he was seen by a doctor before being taken to the State High Security Prison without any explanation. At the time of the interview (25 August), he not only had his left leg in a cast, but also several bruises on his back and hands consistent with his allegations. Furthermore, it is believed that he was in the so-called "situation of transit", i.e., being moved from one penitentiary institution to another every 30 days or so since his arrest in early 1997.

308. **Marcelo Ferreira da Costa**, aged 28, was allegedly subjected to the same treatment as Ronaldo Gaspar dos Santos. He had allegedly been held in the dungeon for the two weeks before the visit of the Special Rapporteur (25 August 2000). At the time of the interview, bruises and haematomas consistent with his allegations were still visible on his left thigh, left and right arms and back.

309. **Marcelo Miguel dos Santos**, a detainee at the *casa de detenção* of Carandiru, reportedly went to see the director of Pavillion Six in order to ask him for a transfer from Pavillion Nine on 5 July 2000, in order to benefit from prison progression to a semi-open regime. He is said to have entered his office with his hands behind his back. The director reportedly told him that if he was from Pavillion Nine, he could leave the office immediately. Marcelo Miguel dos Santos, who is said to have a cataract in his eye and not to see very well, reportedly accidentally kicked a small gate when leaving the office, and apologized. The director allegedly stated that he had kicked the door out of arrogance, took him to a law enforcement room on the ground floor (basement), the *carceragem*. He reportedly told him to undress and he was subsequently beaten on his back and arm by five or six employees with a piece of wood for about half an hour. The director is also said to have punched him. As a result of the beating, he reportedly sustained haematomas under his right arm, swelling to the left side of his back, and injuries to his right shoulder and the base of his neck. The director is subsequently said to have signed a document sending him to the punishment cells in Pavillion Five for 30 days for “flouting the authority of a staff member in order to undermine order and discipline”. His lesions reportedly began swelling. From 5 until 23 July 2000, he was told that he had no right to go to the hospital, to the emergency room or to the infirmary in the prison whilst he was in the punishment cell. Other prisoners are said to have shouted in order for him to obtain treatment. Eventually, the person in charge of the infirmary is said to have given him painkillers. On 23 July, he was reportedly sent to the infirmary, and in the afternoon to a hospital by the infirmary doctor. Because of his injuries, he was said not to have been able to sit. Twice blood and puss was said to have been massaged from his lesions, the first time five litres, the second time three. He was again taken to hospital on the night of 25 August for three hours, the longest period he had been in the hospital since the beating, and was reportedly returned to prison at 1 a.m. Four times, physicians at the penitentiary reportedly said that he ought to be brought to hospital, but there was said to have been no military police available to accompany him. At the time of the interview with the Special Rapporteur, on 26 August 2000, he was in a wheelchair and had visible serious injuries consistent with his allegations, including a large infected wound on his back. He could not move his right arm. The Special Rapporteur inspected the disciplinary report on Marcelo Miguel dos Santos. It stated: “on the date at the place at the time mentioned above, the perpetrator came into the room of the directorate of the security centre (*nucleus*) without authorization and was immediately asked to wait outside the room in order for us to attend to him. He paid no attention and started running around and hit the door with great aggressiveness. For this reason it is being recommended that he be sent to preventive isolation in security nucleus III in accordance with art. 50 LEP.”

310. **Denis Renato Ferreira**, aged 18, was reportedly arrested at home in Francisco Morato on 21 December 1999 by four military police officers and a court official with an arrest warrant. He was searched after having escaped from *Imigrantes*. He was reportedly taken to the closest police station and was taken the following day to the FEBEM reception unit, where he is said to have stayed some 15 days. There, he was allegedly beaten with pieces of cable and iron bars, as

well as kicked, to punish him for having escaped from *Imigrantes*. It is reported that he was subjected to such beatings every day for 15 minutes at the change of duty guard shift. He was said to be forced to take cold showers to make the marks disappear and he was sometimes held in a pitch dark cell. He, like other minors, was allegedly forced to stay seated in silence all day long with both his hands behind his head. At night, it is reported that he was not given a mattress and had to sleep with some 15 other adolescents in a small room on the concrete floor. He was reportedly not always allowed to go to the toilet when he requested. He was said to have been told that his family had been informed of his arrest, which he discovered later was not true. According to the information received, he was not produced before a prosecutor because he was not charged with any new offence for having run away from a FEBEM institution. He was then reportedly taken to the Pinheiros juvenile detention centre, where he was beaten with iron bars and cables upon arrival for half an hour. He was then said to have been taken to a pitch dark room, where he stayed alone for some 10 days, being only allowed two or three times a day to go to the toilet. He was then allegedly taken back to a cell containing eight concrete beds for 16 detainees. According to the information received, when the guards were on drugs or drunk, the detainees were beaten, kicked and punched for no reason. This is said to happen mainly at night. In three months, he is reported to have seen his family only three times. He was then said to have been transferred to São André juvenile detention centre, where he stayed for the first two days in a dark cell. Five or six days later, he was allegedly beaten. At this point, desperate, he is believed to have asked the guards to kill him. Then he was transferred to the Criminological Observation Centre (COC) of Carandiru, where he is believed to have stayed for two months. On 5 or 6 July 2000, a revolt is said to have occurred in the COC, where 98 minors were said to be held at that time. The military police is reported to have intervened, as well as the mob control units. According to the information received, the revolt was provoked by the fact that the prison guards had called in the mob control units to undertake a cell search. The prison guards are believed to have claimed that the detainees were armed with iron bars. The Director of the COC is said to have been present throughout the revolt. All the minors were reportedly taken to the yards and forced to undress. Fearing that they would be beaten, they are believed to have refused. The mob control and military police officers are then reported to have started beating the adolescents and to have fired rubber bullets. At the time of the interview (23 August 2000), two marks consistent with the allegations were still visible on his body. The beatings and shootings in the courtyard are said to have lasted for four hours. The adolescents were then allegedly forced to run through a Polish corridor to go back to their cells.

311. **Samir de Luisa Rodriguez**, aged 19, was reportedly also present during the alleged revolt in the COC on 5 or 6 August 2000 and was subjected to similar treatment.

312. **L.H.F.A.** is said to have been transferred to the Franco da Rocha detention centre at the time of its inauguration. After a revolt had reportedly taken place on 14 August 2000 in the surveillance unit of another FEBEM detention centre, both the minors and the guards from that unit had been transferred to the education unit of Franco da Rocha. After that move, detainees were said to have been hit for little apparent reason, such as talking to each other. For one week, from 15 to 22 August 2000, detainees were reportedly not let out of their cells. On 14 August 2000, L.H.F.A. was allegedly beaten by seven or eight guards. They reportedly forced him into a corner, beat his right arm, left foot and right knee with a metal bar, hit his head with handcuffs and kicked him. They are also said to have targeted his stomach, where they hit him with an iron bar on a scar which had been the result of an operation a year earlier. As a

result of the beatings, his right knee was reported to be swollen, there was a scar on his left foot and he is said to suffer internal pain in his stomach. At the time of the interview (29 August 2000), marks consistent with his allegation were still visible.

313. **Vicinius Prestes de Oliveira**, aged 18, who had reportedly been sentenced to an indeterminate period of detention for aggravated car theft, was said to have been transferred to Franco da Rocha at the beginning of August 2000. According to the information received, he had been beaten on the back with an iron bar and a wooden stick by the night coordinator of the guards and by another guard at 10 p.m. on 24 August 2000. Twelve to 15 guards reportedly came into the cell, several of them masked, bearing sticks of wood and metal bars. They are believed to have beaten the juveniles because they found a pencil in the cell. At the time of the interview (25 August 2000), marks on V.P.O.'s back consistent with his allegation were still visible.

314. **Valeria Aparecida Ribeiro** was reportedly arrested on 26 June 1996 on the street in Santos, State of São Paulo, on suspicion of assault. She was said to have been arrested by three military police officers and taken to the closest district police station, before being taken to a police station lock-up for women, from which she tried to escape. She was then reported to have been transferred to Carandiru Women's Prison and has since then been transferred from one place to another (in so-called "transit"), every month. Upon arrival in Tatuapé on 13 April 2000, she is said to have spent 28 days in a punishment cell. Two male guards had allegedly tried to touch her breast and when she shouted, she was allegedly slapped on the face. She did not complain for fear of being sent back to the punishment cell. Her family is said to be living far from Tatuapé which makes it almost impossible for her relatives to visit her. Her mother is said to have been denied access to her on at least one occasion.

315. **Jose Pereira da Silva Filho** was reportedly arrested on 24 August 2000 by six civil police officers from the anti-kidnapping unit on suspicion of extortion by means of kidnapping. He was said to have been kept for six hours at a district police station, where he was allegedly given electro-shocks on his legs and arms, hung upside down and beaten with wooden and iron bars, kicked and subjected to the technique called *telefone*. According to the information received, he was also forced to eat salt and to drink water in which the officers had previously spit. He is believed to have signed a confession without having been allowed to read it. He was then said to have been obliged to take a cold shower and roll on the floor handcuffed. At 4 a.m. on 25 August, he was reportedly transferred to the DEPATRI, where he was kicked and punched upon arrival by four police officers. At the time of the interview (27 August), he had large haematomas on his back and stomach, consistent with his allegations. He is believed to have asked the head of the jail section to be allowed to have medical treatment, to no avail.

316. **Fabiano da Silva Cesario** reportedly received a gunshot injury on 25 August 2000 in Iberapuera from a civil police officer believed to be from the DEPATRI. He is said to have been arrested in hospital while receiving medical treatment. At the time of the interview (27 August) his arm was in a cast and it was swelling. He was believed not to be receiving medication.

317. **Antonio Elisvaimo Severino Silva** was reportedly arrested on suspicion of assault and beaten at the time of arrest on 8 October 1998 by several civil police officers believed to be from the DEPATRI. He was then taken to a bush area, where he was alleged to have been hung

upside down from a tree and gunshots were said to have been fired close to his head. He was then reportedly taken to the DEPATRI, where he was beaten upon arrival. A police officer is reported to have jumped on his back. It is believed that he had started to bleed from the mouth and nose. He was allegedly asked to pay 45,000 reais in order to avoid signing a confession. As he could not pay, he is said to have signed a confession under threat of being subjected to further beatings. He was then reportedly taken to the emergency room of Saint Anna Hospital. During the transfer, he is believed to have been beaten. According to the information received, he was brought before a magistrate on the following day. He was reportedly released on bail. On 13 June 2000, he was reportedly arrested by military police officers on suspicion of armed robbery. According to the information received, he was beaten and pepper sprayed on the street at the time of arrest and was then taken to the DEPATRI, where his lawyer is said to have asked for a medical examination. A police officer is reported to have entered the office of the IML doctor who examined him. It is believed that because of the presence of the police officer he did not dare to complain about the beatings. He was reportedly never interrogated. On 1 August, he is said to have been presented to a magistrate, to whom he complained about his ill-treatment. The magistrate is believed not to have reacted to his allegations. It is reported that his lawyer informed him that he himself could not speak in court before the third hearing.

318. **Luiz Antonio Roza** was reportedly arrested on 26 June 2000 and taken directly to the DEPATRI, where he was allegedly beaten by highway police and DEPATRI officers upon arrival. He was allegedly also punched and kicked in the genitals. He is reported to have signed a confession without having been able to read it. He was reportedly never interrogated again. On 7 August 2000, he was said to have been brought before a judge who informed him that he had been charged with having formed a criminal gang. He was reportedly not allowed to speak to the judge. It is reported that he complained to his lawyer about the beatings he had allegedly been subjected to. According to the information received, the police had intended to call a television station, allegedly in order to portray him as guilty.

319. **Wilson Pereira da Silva** was reportedly arrested by four civil police officers on 22 May 2000 in a branch of the Itau Bank where he was working in São Paulo and taken to DEPATRI on suspicion of having been an accomplice to a bank robbery. He was reported to have been taken to the 1st *Delegacia* of DEPATRI in charge of bank robberies, where he was slapped, subjected to the technique called *telefone* with two bottles full of water, and beaten with their fists by police officers. He reportedly refused to sign any confession despite having reportedly been subjected to such ill-treatment for six hours. According to the information received, he was then transferred to the 77th District Police station where he spent five days. He was allegedly taken back to the DEPATRI every day where he was interrogated and beaten, as well as subjected to insults and humiliations. It is believed that the police officers also threatened to harass his family. On 28 July, he reportedly appeared in front a judge to whom he did not complain about the ill-treatment, because his family had been threatened with reprisals. His lawyer, to whom he is said to have complained about the ill-treatment, is reported to have said that she would take action.

320. **Adilson Chrusczak** was reportedly arrested on 13 July 2000 by two police officers wearing civilian clothes on Anchieta Avenue in São Paulo, on suspicion of extortion. At the time of arrest, he is believed to have been thrown on the floor and a police officer is said to have stepped on his back. He was then allegedly taken to the Riacho Grande area where he was

beaten, in particular with a gun butt, for approximately one hour. He was then reportedly transferred handcuffed to a place which is said to be the building formerly used as a jail, where he was allegedly beaten by five or six officers. He was then reported to have been forced to take a cold shower. At 3.00 a.m., he was reportedly forced to sign a confession that he was not allowed to read. At 4.00 a.m., he is said to have been transferred to the DEPATRI jail. He is believed to have been stripped naked and to have been beaten. According to the information received, because of the overcrowding in the cells at the time of his transfer, he was held in the visitors room for seven days. In this room, it is reported that there was no mattress and no toilet and that detainees had to use bottles and plastic bags to relieve themselves. On several occasions during these seven days, they were allegedly beaten with iron bars, each time for some 40 minutes. Forty days after his arrest, he was reportedly brought before a judge without having previously been able to meet with his lawyer.

321. **E.S.S.**, aged 17, had reportedly been transferred to Franco da Rocha on 30 July 2000 at its reinauguration. On 14 August, more than 20 guards are said to have invaded his cell in the early morning and to have thrown several detainees on the floor. One warden reportedly hit him in the face and on his elbow with a metal bar and a piece of wood. As a result, he reportedly lost a front tooth and his arm was reportedly broken. He was also said to have been hit on the back by a number of other guards. He was reported to have been taken to hospital on the same day, however, when he arrived the doctor was said to have been leaving, so he did not receive any medical treatment. As a result, he was reportedly unable to bend his elbow fully.

322. **Sebastião Guilherme dos Santos**, a detainee in Carandiru prison, had reportedly been shot in the leg in 1995 in the street when he was working as a train cleaner. In May 1998, he was said to have been arrested and transferred to the police station in Itapevi, where he was detained for about three months, and from there to the Embu das Artes police station. On 27 April 1999, he was reportedly transferred to Carandiru prison. His leg reportedly had become infected at the Itapevi police station; however, he was allegedly not taken to hospital. After his transfer to Carandiru, he was reportedly supposed to receive medical treatment at the public hospital; however, the doctors at the Hospital das Clínicas reportedly refused to accept him on the grounds that they did not accept prisoners for treatment. He reportedly was sent to another hospital some time later, where his wound was looked at and he was sent back to prison. A week later, he went again to hospital and was said to have been sent back without treatment. In mid-August 2000, one week before the visit of the Special Rapporteur, when his whole lower leg was infected and covered by an open wound, he was reportedly sent to a hospital where a doctor told him to keep the bandages clean, change them twice a day and to disinfect the wound; only when the wound was no longer oozing, could surgery be performed. The medical staff at Carandiru prison are said to have given him injections for the pain, anti-inflammatory medication and bandages to the extent available. However, for three days in a row during the week before the Special Rapporteur's visit, the bandages reportedly were changed, and prior to that no bandage material is said to have been available for over a week.

323. **Otávio dos Santos Filho** was reportedly summoned to appear in court in 1996 and sentenced in absentia to five years and four months' imprisonment for armed robbery. According to the prosecutor, he had never received the summons as his address "did not exist" and the sentence was published in the official gazette. In February 1997, he was reportedly arrested by military police and taken to the DEPATRI jail in São Paulo where he is said to have

been detained for eight months. On 13 October 1997, his sister-in-law allegedly visited him and found him in good health. On the following Friday, his sister reportedly found out that her brother was sick. The following day, she went to the jail to take medication to him. Outside the police station, she was informed by him through the use of her mobile phone that his request to be taken to the emergency room had been refused. On Saturday at 4 p.m., she called him again and he allegedly said that he had been taken to the hospital where he had received some treatment from a nurse but had not been allowed to see a doctor. According to the information received, the previous Thursday he had experienced severe breathing problems and had insisted that he be taken to the emergency room. The *delegado* reportedly stated that it was too early. He was allegedly taken from his cell, brought to the *parlatorio* and punched and kicked throughout the night, and taken back to his cell the following morning. A witness outside the jail reportedly saw him vomiting blood when he was being taken to the hospital. Upon hearing about the events, his sister tried to visit him, but her brother was reportedly too afraid of being beaten again if he spoke to her. According to the information received, a lawyer was reportedly informed by the family but did not request immediate access to him. His sister reportedly spoke to him last on Sunday, when he was said to have been feeling very weak. When she went to the jail on Monday morning, together with a sister-in-law, the *delegado* is said to have informed her of her brother's death. She was reportedly allowed to see his body on the same day. The death certificate is said to state the cause of death as "undetermined". His sister reportedly paid for a copy of the IML certificate, according to which he died in hospital because he had hit his head while in jail; no alcohol or drugs had been found in his blood. The sister allegedly sent this certificate to a medical doctor in Guaratingueta, who concluded on the basis of the certificate and the photographs she had taken of the body that Otávio dos Santos Filho had died from a haemorrhage. In December 1997, the human rights commission, through the prosecutor, reportedly started proceedings and had a first audience with a judge. The prosecutor was reportedly taken off the case and replaced. The judge reportedly heard witnesses who reported that on Sunday night the inmates had called for help, that the victim had been bleeding and that the *delegado* had stated that there had been no car available to take him to the hospital. According to the information received, the proceedings were stopped for unknown reasons. The Special Rapporteur would be grateful to receive information about the outcome of the judicial proceedings.

324. **Nilson Saldanha** was reportedly arrested in flagrante delicto on 15 July 1998 and taken to the 50th, the 70th and later to the 55th district police station. He was allegedly found guilty of robbing a truck. He was reportedly sentenced and was awaiting the appeal. He reportedly asked to be transferred to a prison. On 9 July 2000, the civil police officers of the *delegacia* reportedly asked the Special Operations Group (GOE) to enter the cell where he was detained to stop a fight. According to the information received, they entered the cell, told the prisoners to remove their clothes and searched them for weapons. When they found a gun, they reportedly started beating detainees (it is thought there was a total of 36 prisoners in the cell), including the above-named person who could not get up. The GOE are said to have poured liquid over some mattresses, to have told the detainees to lie down and to have given them electro-shocks. Nilson Saldanha was allegedly handcuffed, tied to the cell bars with his feet in a bucket and given electric shocks. He was reportedly also beaten with an iron bar and lost consciousness. It is believed that his skin was extensively injured, that he had three broken ribs and burns between his toes, but he was not taken to hospital until 18 July 1998. When his wife tried to visit him on 15 July (as she did every Tuesday), the *delegada* and the head of the lock-up reportedly told her

that there had been a revolt and that visits were therefore suspended. The following day, she was reportedly informed by a man who had been released the same day that Nilson Saldhana was in a very bad state. She was said to have heard from a local journalist that he was dead in hospital. According to the information received, his lawyer saw him on 15 July and at that time he was only reportedly suffering from a pain in his back. It is believed that he was taken to the hospital twice on the following Sunday. He was reportedly beaten in the car, given two injections in the arm and one in the head. His legs were said to have been paralysed and he had convulsions. As detainees in the cell called for help, he was allegedly taken out of the cell and put in a “cajo” (another cell where prisoners caught in flagrante were held) together with another man. He reportedly died at 2 a.m. the following morning. The *delegada* was alleged to have instructed the doctor to write in the occurrence book that he died of a heart attack. The body was allegedly later sent to the IML for an autopsy which revealed that he had died of multiple trauma caused by a blunt instrument. The detainee who took Nilson Saldhana to the hospital was reportedly threatened by the police with isolation if he said anything about what had happened. The police chief allegedly made all the prisoners sign statements that they had not suffered any mistreatment. The case was reportedly sent to the general *corregedor* by the prosecutor (although the *delegado* was allegedly supposed to take action if so requested by the prosecutor), a procedure was opened. All the prisoners, except one, testified that they had been tortured. At the time of the interview (23 August), the results of the examination by the forensic doctor were said not to have been part of the evidence. The *delegada* and the aggressor were allegedly not summoned and it is believed that they are still in service. According to the information received, the case is still in the investigatory phase and that no time limit had been set for the conclusions of the inquiry. The *delegado* in charge of the inquiry and his successor were reportedly transferred.

325. **Antonio Elis Vanho Severino Silva** was reportedly arrested on 13 June 2000. At the time of his arrest, he was allegedly beaten and had pepper spray sprayed in his eyes. He was allegedly charged with armed robbery and taken to the DEPATRI jail in São Paulo where his lawyer reportedly requested a medical examination. According to the information received, he was taken to the IML by police officers who remained in the room during the examination. As a result, the doctor is said not to have reported any injury. He was allegedly taken to court by military police and threatened with a gun not to speak about the treatment he had received.

326. **Dimas Camargo Junior** was reportedly transferred on 15 August 2000 from Arare prison to the DEPATRI jail where he was to be detained until 31 August 2000 for identification purposes. On 24 August 2000, he was allegedly beaten by the *delegado* of the *delegacia* for vehicle theft. He was reportedly taken to a small room upstairs, where there were said to be bloodstains on the wall. He was reportedly beaten on his stomach and head with the dehydrated penis of an animal for 10-15 minutes. He was also allegedly given electric shocks. He reportedly did not see a judge and he was taken to the IML by two investigators, who allegedly remained in the room during the examination. Owing to the presence of the investigators, he reportedly stated that the injuries had been caused by an accident.

327. **Jardel Sachi Barbieri** was reportedly caught in flagrante delicto in May 2000 by military police and taken to a deserted place where about 10 officers tied his head and foot to a tree and kicked and punched him for 40 minutes while questioning him about alleged accomplices. He was reportedly then taken to a riverbank with his hands and ankles tied and threatened with

being thrown in the river. In July 2000 he was reportedly transferred to the DEPATRI jail. He was taken to the front office and later on to the *parlatorio* where he was allegedly beaten throughout the night with metal bars. The officers reportedly put a revolver in his mouth. It is believed that he finally signed a *nota de culpa*. He was reportedly taken to a forensic doctor by three officers who remained with him and did not allow him to speak confidentially with the doctor. Afterwards he was allegedly punched, kicked and hit with iron bars by 10 police officers in the *parlatorio* of the jail for about five hours.

328. It is alleged that on 9 June 2000, police officers checked the cells of the 50th district police station of São Paulo on three occasions. On the fourth, they were said to have discovered a gun. All the detainees were allegedly stripped naked, put on wet mattresses and given electric shocks. They were also allegedly forced to run through the so-called “Polish corridor” made up of officers from the police station and members of the GOE, most with their face covered with hoods, who reportedly beat them with iron bars and forced them to perform humiliating acts such as rolling on the floor and doing “frog-leaps”. This is said to have lasted the entire afternoon. The Special Rapporteur heard the same story from detainees in different cells who could not hear each other. This, combined with the fact that most detainees bore marks of serious beatings, made their allegations most credible.

State of Rondonia

329. **Manoel Balduino Alves** was allegedly arrested by military police officers in Chupinguaia on 1 January 1997 and taken to the local military camp. According to the information received, he was kept in a small room, was given electro-shocks and was beaten by three military police officers. As a result, he reportedly lost 90 per cent of his hearing. He was allegedly threatened with death not to report what had occurred. A judicial inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

State of Tocantins

330. **Anofre Antônio Lemos**, aged 60, **Raimundo Ramos da Silva**, aged 49, and **Francisco Felismino Veloz**, aged 61, all agricultural workers, allegedly occupied a private farm in Tocantins and were reportedly arrested on 13 November 1998 by military police officers who were allegedly accompanied by a court official. They were allegedly taken to the MST camp where **Bento Gonçalves Pereria**, aged 59, and **Edelson Alves Moraes**, aged 46, also agricultural workers, were reportedly also arrested. Around the same time, the leaders of the MST movement, **Cícero Denivaldo Gomes da Silva**, aged 31, and **Jorge Nunes Chaga**, aged 20, were allegedly arrested in a nearby city. According to the information received, these two men were brought to a local farm where the other previously arrested agricultural workers were reportedly held. They were all allegedly beaten with a gun butt, knives and machine-guns for four hours. The farm’s employees were allegedly incited to kick them and to verbally threaten them. One of the movement’s leaders was allegedly submerged in water. It is reported that he was slapped on the ears and punched for five hours. According to the information received, on 14 November 1998, at 1.00 a.m., they were all taken to the police station at Wanderlândia. They reportedly underwent an official medical examination which allegedly registered lesions and marks consistent with the allegations.

331. **Raimundo Lima de Sousa**, an agricultural worker, was allegedly sentenced for the murder of a civil police officer and reportedly taken to the police station at Conceição do Araguaia, state of Pará, on 22 July 1998 and to the police station in Couto Magalhães, state of Tocantins, the next day. According to the information received, on 25 July 1998, two civil police officers and two police chiefs went to the police station, allegedly to transfer him to the police station in Colina, state of São Paulo when he reportedly died in his cell the same day. According to the police officials, he committed suicide. On 25 July, a medical examination was reportedly performed which supported the allegation of suicide. An inquiry was allegedly opened. Prior to his death, he had reportedly told two persons that he was being threatened with death and was afraid of being murdered on the way to Colina. According to the information received, new testimonies reinforced the hypothesis of police torture. The state attorney reportedly requested exhumation of the body. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

332. **Manoel Ribeiro Santana** was allegedly arrested in Palmas on 7 January 1997 on suspicion of theft and taken to the 1st district police station. He was reportedly forced to sign a confession after having been kicked, punched and his head submerged in water. He was then allegedly transferred to the police station at Miranorte where he was kept handcuffed. **Antônio Abreu de Carvalho**, a 25-year-old salesman, was allegedly arrested at his house on 8 January 1998 at around 6.00 a.m., on suspicion of having bought a stolen sound machine from Manoel Ribeiro Santana. He was reportedly taken to an isolated area and beaten. He was allegedly taken to the police station and subsequently released. He is said to have been taken by his father to a hospital and then back to his house. At around 2.00 p.m., two police officers reportedly arrived at his house, took him to the police station to interrogate him and requested 200,000 reais from his father to close the case. The latter is said to have accepted and the son was allegedly taken again to the hospital, where it is believed that a doctor told him that he should look for another hospital. It is reported that he was transferred to another hospital where he allegedly died on the same day. His body is reported to have undergone an official medical examination which registered lesions compatible with the allegations. Two inquiries are said to have been opened. Although one of the inquiries allegedly accused two civil police officers, they have reportedly not been arrested. The other inquiry allegedly identifies two civil police officers and two police chiefs as responsible but is said to be still in process. The Special Rapporteur would be grateful to receive information about the outcome of the inquiries.

333. **Deumir do Santo Pereira Freitas**, a private security guard, was allegedly arrested by two civil police officers at his workplace in Palmas on 22 November 1999 on suspicion of theft. He was reportedly handcuffed and taken to a thicket area near a bridge where he is believed to have been punched several times in his stomach by a police officer in order to make him confess. According to the information received, he was then taken to the 3rd district police station where he was reportedly handcuffed to an iron bar. After three hours, he was allegedly transferred to another police station. A judicial inquiry has reportedly been opened.

334. **José Gomes da Silva**, a 27-year-old driver, and **Jonas Araújo de Sousa**, aged 18, were allegedly arrested by four civil police officers and a police chief in Palmas on 6 January 1999 on suspicion of having taken part in robberies on public buses. They were reportedly taken to the 2nd district police station where they are said to have been beaten by police officers. The police chief allegedly placed a plastic bucket over José Gomes da Silva's head and hit his head several

times. He reportedly threatened to staple his penis with a stapler. The next day, he was allegedly transferred to another police station and reportedly released. A judicial inquiry has allegedly been opened. The Special Rapporteur would be grateful to receive information about the outcome of the judicial inquiry.

335. **Ozias Tavares de Araújo**, an agricultural worker, was allegedly arrested on 18 December 1999 by three military police officers who had entered his home, located about 30 km away from the state capital in Monte do Camo, without a warrant. At the time of his arrest, he was reportedly handcuffed and beaten with sticks in the presence of his brother, his sister-in-law and his nephew. Shots were allegedly fired close to his ear. As a result, his nose reportedly started to bleed and his eardrum burst. A police officer reportedly shot at him and the bullet grazed his right ear. He was then allegedly punched on his ear. He was then reportedly taken to the 1st district police station in Palmas. During the transfer, he was reportedly beaten, punched, kicked, hit with a machete on his back, neck and feet and had a plastic bag placed over his head. At the police station, he was reportedly asked to sign documents which he was not allowed to read and to pay 6,000 reais. The police is said to have released him on the following day after the intervention of an attorney. He was allegedly not accused of any offence. On 20 December, he saw a doctor who allegedly examined his lesions. Twenty-five days later he reportedly went to the Office of the Public Prosecutor and requested the opening of an inquiry, which is said to have been initiated. The medical report prepared by the Office of the Public Prosecutor is said not to be available and the status of the procedure reportedly not known. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

336. **Valdir Inácio de Paula** was allegedly arrested on 14 February 2000 in Araguaína, on suspicion of organizing a gang and taken to the Araguaína regional police station where he was reportedly beaten by four military police officers. They reportedly put a plastic bag over his head, nearly suffocating him, and to have hit him with a wooden stick on his neck for three hours. The next day, he was reportedly transferred to a prison. According to the information received, he was transferred to a hospital on 4 March 2000 where he reportedly died on 16 March 2000. His body allegedly underwent an official medical examination but the doctor is said not to have signed the final report. A judicial inquiry has allegedly been opened and it is thought that exhumation of the body has been suggested. The Special Rapporteur would be grateful to receive information about the outcome of the judicial inquiry.

337. **R.L.S.**, aged 16, was allegedly arrested by a civil police officer at his house in Palmas on 25 October 1999. According to the information received, the officer was searching for his 14-year-old sister, who had allegedly stolen a wallet. He was reportedly taken to the 4th district police station where he is said to have been pushed onto the floor and handcuffed for more than nine hours. It is reported that he was taken to a bathroom and beaten by a man who reportedly inserted his head inside the toilet bowl twice, in order to make him confess. He was allegedly slapped in the face, kicked and punched in his back, knees and stomach by a police officer while the other man beat him. It is said he escaped from the station the next day, still wearing his handcuffs. As a result of the beatings, his body was reportedly covered with lesions and he allegedly suffered from fever, severe pain and bleeding on his wrists. A member of the City Youth Rights Division reportedly took him back to the 4th district police station the next day, where officers removed his handcuffs and the police chief formally released him. He reportedly

underwent an official medical examination. A judicial inquiry is said to have been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

338. **Jurivaldo França dos Santos**, a student, allegedly had a misunderstanding with his 6-year-old neighbour in Palmas on 2 October 1999. The child's father reportedly called the military police officers. It is said that the officers arrived and pulled him by his ear. He was then allegedly slapped on the nose and thrown onto the floor. He was reportedly taken to the police station at Jardim I Aurenny. According to the information received, two civil police officers took his shoes off and kicked him. He was reportedly told to kneel down and was punched in the neck while handcuffed. It is said that he was released the same day. An inquiry has allegedly been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

339. **Roberto Muniz Campista**, a 25-year-old agricultural worker, was reportedly beaten by four police officers at his house in Taquarussú on 22 April 1999. According to the information received, the police officers and two other men arrived at his house with an eviction notice. He is said to have questioned the document presented to him and to have said that he would not leave the house. The police officers allegedly started to beat and threaten him. He is said to have reported the incident at the police station and requested an official medical examination. The two men, along with five military police officers, allegedly returned to his house while he was away and took all his belongings. His mother, **Eulália Francisca Muniz Campista**, an agricultural worker, who was said to have been lying in bed sick, was reportedly thrown onto the floor by an officer. She allegedly hit her head and fainted. She was said to have been taken to a hospital where she reportedly remained for 10 hours. A judicial inquiry was allegedly opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

340. **Flávia Rodrigues Mota de Oliveira**, a 26-year-old public employee and student, and her brother were allegedly approached by three military police officers at her house in Palmas on 31 March 1999. The officers reportedly asked for their documents and verbally abused them. According to the information received, she, her brother and her husband (who arrived later) were beaten by the officers. She reportedly underwent an official medical examination which registered lesions consistent with the allegations. The local media is thought to have been informed about the incident.

341. **Deusimar Alves**, aged 26, was allegedly arrested by military police officers on 6 April 1995 in a bar in Barrolândia. He was reportedly taken to a police station and allegedly escaped a few days later. According to the information received, on 15 April 1999 the military police officers rearrested him along with his wife, **Luzinete Alves**, who was pregnant, and severely beat them. She was allegedly tied to a tree, violently punched and beaten with a rope. According to the information received, she was forced to push the police vehicle on their way to the police station while officers whipped her with a rope. In the police station, she was allegedly slapped in the face and struck with a club. She reportedly fainted as a result of the torture. She is said to have been detained until 18 April and then was released. It is believed that she was threatened not to tell anyone about the incident. According to the information received, the officers told her that if anyone questioned her about her injuries, she should say that

she had fallen. She is said to have lost her baby as a result of the beatings. The officers involved in the incident have reportedly not been punished.

342. **Vilmar Anastácio Júnior**, aged 28, and his father, **Vilmar Anastácio**, a 48-year-old salesman, were allegedly involved in a misunderstanding with a military police officer at a bar on 28 March 1997 in Dianópolis. It is said that the police officer shot at Vilmar Anastácio Júnior, severely injuring him. **Wagner Wilson Anastácio**, his 25-year-old brother, reportedly arrived and killed the military police officer. Five military police officers reportedly arrested Wagner Wilson Anastácio. According to the information received, a group of officers in two cars drove him about 5 km away from the city and beat him. He was then reportedly shot twice and died. Vilmar Anastácio was reportedly arrested on 29 March 1997 at the hospital where Vilmar Anastácio Jr. had been taken. According to the information received, he was beaten in the hospital and then taken about 6 km away from the city. It is believed that he was shot three times and died. A judicial inquiry was allegedly opened. Six military police officers were reportedly indicted and preventive custody was requested. According to the information received, they were reportedly detained in a special prison, but released on a *habeas corpus* writ obtained by their lawyer. The proceedings are said to be continuing. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

343. **Alexandre Correia de Souza**, aged 25, was allegedly arrested by military police officers in Palmas on 27 April 1997. According to the information received, he was drunk and broke a mirror during a party in a bar. It is reported that he was taken to an isolated area, handcuffed and beaten, mainly in the abdominal area. He was released some time later after having been taken to the 1st district police station. On 28 April, he allegedly started to vomit blood and to feel sharp pain all over his body. He was allegedly taken to a local hospital where he underwent an operation. Due to his worsening health conditions, he was reportedly transferred to the Gurupi Regional Hospital where, according to the information received, he died on 29 April as a result of the alleged torture. His body reportedly underwent an official medical examination which allegedly registered lesions consistent with the allegations. A judicial inquiry was reportedly opened. Three military police officers were allegedly indicted and preventive detention was requested. According to the information received, they were arrested on 28 May and released on 8 July on a *habeas corpus* writ obtained by their lawyer. The proceedings are said to be continuing. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

344. **Alvino Valentin de Carvalho**, a 37-year-old agricultural worker, was allegedly arrested by five police officers in plain clothes on 12 November 1997 in Lagoa da Confusão. He was reportedly handcuffed, taken to a distant neighbourhood and beaten in order to reveal the whereabouts of his cousin, who was said to have been accused of bank robbery. According to the information received, he was left in the bush and managed with difficulty to get to a hospital where he received treatment. He reportedly reported the incident to the Office of the Public Prosecutor. He allegedly underwent an official medical examination which reportedly registered lesions consistent with the allegations. On December 1997, he was allegedly approached again by four police officers in plain clothes, put in their private vehicle and taken to an isolated area where he was reportedly beaten again and his head submerged several times. It is believed that he did not go to court to testify due to the threats he had allegedly received. A police inquiry is

said to have been opened. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

345. **Luis Carlos Paranhos das Neves**, a 39-year-old teacher, was allegedly arrested on 20 March 1998 in Palmas on suspicion of possessing marijuana. He was reportedly taken to a police station where his right to consult a lawyer was allegedly denied and where he is said to have been beaten and subjected to “telephone torture” by the police officers. According to the information received, the police chief told him to sign a confession that he was a narcotics dealer, in order to acquire evidence against a man who had allegedly threatened to kill a police officer. When he refused, he was reportedly threatened and, as a consequence, is said to have signed “some papers”. An inquiry has reportedly been opened. The Special Rapporteur would be grateful to receive information on the outcome of the inquiry.

346. **Oliveira Negri**, aged 25, **Gumercindo Pereira Dias**, aged 42, and **Doralício Bento Araújo**, aged 46, were allegedly arrested by military police officers in Porto Nacional on 14 November 1998 on suspicion of theft. They were reportedly taken to the local police station and beaten. It is reported that Doralício Bento Araújo died in Porto Hospital. The Office of the Public Prosecutor and the *corregedor* of the military police have allegedly been informed about the incident.

347. **Cledson de Sousa Magalhanes** was allegedly arrested “in flagrante delicto” for rape on 29 February 2000 at 2.30 p.m., while reportedly on his way to the supermarket. It is reported that police officers came up to him and told him to lie down so he could be handcuffed. When he refused, a police officer beat him and put him into a police car. A lieutenant (whose name is known to the Special Rapporteur) allegedly ordered him taken out of the car and the police officers started beating him, saying “this is what we do to rapists”, in the presence of witnesses. At 6 p.m. he was reportedly taken to the military police station where police officers, standing in a circle, allegedly slapped him, pushing him from one side of the circle to the other and beating him in turns to make him confess. It is reported that they particularly beat his ears with their palms (“telephone torture”). When the press came to the police station to film him, he was allegedly given a cold shower and was made to dress. It is believed that he was not allowed to cover his face and was apparently shown on television and depicted as a rapist. When the press left, he declared that he was innocent and was reportedly kicked in the genitals. He was reportedly later taken to the civil police station in Taquaracu (40 km from Palmas) where a *delegado* took his statement. Although it was raining and he had a fever, he was allegedly put in an open-roofed yard and during the night buckets of cold water were reportedly thrown on him. According to the information received, a judge subsequently declared that the accusation against him was groundless and he was released. Since his release, he has reportedly received threats by phone and his house is said to be watched. When he was released he allegedly went to the Human Rights Commission and to a prosecutor in Palmas and a civil complaint is said to have been filed for moral and physical damage. The process is reported to be slow. The judge has reportedly seen the signs of torture and a medical examination is said to have confirmed his allegations. Cledson de Sousa Magalhanes has reportedly requested the opening of criminal proceedings against the police. It is reported that the judge has ordered the public prosecutor to open an investigation for the crime of torture but that this investigation is pending. The accused officers are said still to be working. The Special Rapporteur would be grateful to receive information about the outcome of the inquiry.

348. **Paulo Francisco de Sousa**, a 26-year old employee in a motorcycle shop, was reportedly suspected of having broken into the house of a police sergeant in Palmas because a motorcycle had been seen on the scene. On 25 December 1999, he was allegedly arrested by military police at 3 p.m. at a petrol station in Palmas and released around 6.30 p.m. pending investigations. According to the information received, during his arrest he was handcuffed and taken to a market by the military police where he was shown a motorcycle and asked if he knew who it belonged to. He reportedly said that he did, and took the officers to the home of the owner of the motorcycle. This person was allegedly not there and the police accused Paulo Francisco de Sousa of covering up. He was allegedly taken to a place outside the town, removed from the car, thrown to the ground and beaten with nightsticks, *inter alia* on his feet, until 6 p.m.. He is said to have then been taken to the military garrison and told that he was going to be freed. The military police stated that they would take him home and threatened to contact the transport police to cancel his provisional driver's licence if he talked about the beatings. According to the information received, he immediately went to the civil police station to report the beating, where a police officer told him to be quiet. Another police officer reportedly recognized Paulo Francisco de Sousa and stated that the case should be registered. The civil police officers also ordered him to be taken to the IML the following morning. With the results of the examination, he reportedly went to court, saw the prosecutor and human rights groups. He then reportedly went to see the colonel of the military police, telling him that what had been written about him in their reports was false. The colonel allegedly said that he would call a military police captain to open an inquiry against the two policemen. The accused military policemen are said still to be patrolling the streets and reportedly ran into Paulo Francisco de Sousa. Following this incident, he again went to court and to the Office of the Public Prosecutor where an inquiry was allegedly opened. Four weeks later, on 20 January 2000, court proceedings reportedly started. It is thought that he had had to move to his mother's house because he was being threatened. The Special Rapporteur would be grateful to receive information about the outcome of the proceedings.
