URUGUAY

an amnesty international briefing

- Human rights violations: political arrests and detentions
- 'Disappearances'
- Torture and cruel, inhuman or degrading treatment
- Treatment of civilians held in military prisons
- Prisoners of conscience
- Trials
- Deaths in custody

URUGUAY

an amnesty international briefing

First issued November 1983

Amnesty International Publications
1 Easton Street
London WC1X 8DJ
United Kingdom

AI Index: AMR 52/34/83
ISBN No: 0 86210 063 1

© Copyright Amnesty International Publications. Original language English. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording and/or otherwise, without the prior permission of the publishers.

Printed by Redesign, 9 London Lane, London E8.

THIS briefing is part of Amnesty International's worldwide campaign for the international protection of human rights.

Throughout the world thousands of people are in prison because of their beliefs. Many are held without charge or trial. Torture and executions are widespread. In many countries men, women and children have "disappeared" after being taken into official custody. Still others have been put to death without any pretence of legality: selected and killed by governments and their agents.

These abuses—taking place in countries of widely differing ideologies—demand an international response. The protection of human rights is a universal responsibility, transcending the boundaries of nation, race and belief. This is the fundamental principle upon which the work of Amnesty International is based.

- Amnesty International is a worldwide movement independent of any government, political persuasion or religious creed. It plays a specific role in the international protection of human rights:

  — it seeks the *release* of *prisoners of conscience*. These are people detained for their beliefs, colour, sex, ethnic origin, language or religion who have not used or advocated violence;
  — it works for *fair and prompt trials* for all *political prisoners* and on behalf of political prisoners detained without charge or trial;
  — it opposes the *death penalty* and *torture* or other cruel, inhuman or degrading treatment or punishment of *all prisoners* without reservation.

- Amnesty International is impartial. It does not support or oppose any government or political system, nor does it support or oppose the views of the prisoners whose rights it seeks to protect. It is concerned solely with the protection of the human rights involved in each case, regardless of the ideology of the government or the beliefs of the victims.

- Amnesty International, as a matter of principle, condemns the torture and execution of prisoners by anyone, including opposition groups. Governments have the responsibility for dealing with such abuses, acting in conformity with international standards for the protection of human rights.

- Amnesty International does not grade governments according to their record on human rights: instead of attempting comparisons it concentrates on trying to end the specific violations of human rights in each case.

- Amnesty International has an active worldwide membership, open to anyone who supports its goals. Through its network of members and supporters Amnesty International takes up individual cases, mobilizes public opinion and seeks improved international standards for the protection of prisoners.

Amnesty International's work is based on the United Nations Universal Declaration of Human Rights. The organization has formal relations with the United Nations (ECOSOC), UNESCO, the Council of Europe, the Organization of African Unity and the Organization of American States.

Since the present government came to power following the dissolution of the National Assembly by the armed forces on 27 June 1973 and the subsequent suspension of all democratic political activity, Amnesty International (AI) has received persistent reports of serious human rights violations in Uruguay.

In March 1983 AI wrote to the Minister of Foreign Affairs, Dr Carlos Maeso, to inform him that an AI delegation would be visiting Uruguay during the first week of April to collect information relating to its human rights concerns.

During the course of the mission, one of the delegates had a meeting with the Minister of Foreign Affairs. The delegation also met representatives of non-governmental organizations, including the Colegio de Abogados, Uruguayan Bar Association, the Servicio de Paz y Justicia, Peace and Justice Service, representatives of political parties, and private individuals.

On 26 July 1983 AI sent a Memorandum summarizing the findings of the mission and its concerns in Uruguay to the Uruguayan President, Retired General Gregorio Alvarez. In a covering letter, AI offered the Uruguayan authorities an opportunity to reply, stating that it could publish a reply together with the AI Memorandum if the reply were received by 9 September. By that date, no response had been received. The authorities have not made any substantial response to any of the detailed concerns outlined by AI in previous communications it has submitted.

Human rights abuses have continued to occur in Uruguay since the AI mission report. At least 50 university students and young people are believed to have been arrested in Montevideo in June 1983, 25 of whom were subsequently charged with "subversive association" or "assistance to subversive association" under Article 60 of the Military Penal Code, offences which carry penalties of three to eighteen years and two to eight years imprisonment. The students were accused of illegally distributing leaflets and of organizing meetings and demonstrations as clandestine members of the banned Unión de Juventudes Comunistas, Union of Communist Youth. There was no suggestion that any of them had practised or advocated violence in any form. All were subsequently adopted by AI as prisoners of conscience. Disturbing reports were received from reliable independent sources that some of the prisoners had been tortured with electricity, beatings and semi-asphyxiation by immersion in water. At least one woman was alleged to have been raped while in custody and a male detainee had to be hospitalized allegedly as a result of injuries caused by torture.

AI has concluded that serious human rights violations have continued to occur since 1973 with respect to the arrest and imprisonment of persons for non-violent political activities (prisoners of conscience), the use of torture and other forms of cruel, inhuman and degrading treatment and punishment, the lack of safeguards against arbitrary detention, and the use of legal procedures that do not conform to internationally accepted standards for a fair and impartial trial.

HUMAN RIGHTS VIOLATIONS IN URUGUAY

Detention provisions

The Uruguayan Constitution of 1967 establishes that an arrest can only be *in flagrante delicto* or on the written authorization of a magistrate based on *prima facie* evidence of committal of a crime (Article 15). The magistrate must take a statement from the detainee within a period of 24 hours and committal proceedings must begin within 48 hours (Article 16). A decree of June 1973 extended this period to 10 days in the case of persons detained for alleged "subversive activities", but much longer periods of incommunicado detention are common.

Emergency measures

The Executive has justified extended incommunicado detention by reference to Article 168:17 of the Constitution, which allows the Executive to take "emergency security measures in serious and unforeseen cases of external attack or internal turmoil". These measures refer exclusively to emergency powers of arrest or transfer of persons from one part of the territory to another, which may be carried out without reference to the courts. Arrests made under these powers are excluded from legal stipulations regarding arrest procedures and the length of pre-trial detention.

Constitutional safeguards against the abuse of these powers, such as the requirement that they be submitted to parliamentary approval, have not been exercised since the dissolution of the elected legislature in June 1973, and its replacement by an appointed body, the Council of State.

Although intended as a preventive measure, the actual reason for the use of these security measures, which has become routine, appears to have been related to the need to obtain evidence for convictions.

Individual guarantees are further curtailed by the effective suspension of the remedy of *habeas corpus* in cases of detention under these emergency measures.

Drawn in Libertad Prison New Year (1975)

Elbio Ferrario Olivera, an artist, was only 19 when he was arrested on 24 July 1972. He has been sentenced to 20 years' imprisonment plus an additional two to eight years of precautionary detention. *AI* believes that trial proceedings against him were based exclusively on declarations he made while being held incommunicado and subjected to torture, which he subsequently withdrew. The court failed to declare the retracted statement inadmissible and no account appeared to be taken of his relative youth at the time of the offence. *AI* believes that the conduct of this trial was in violation of legal procedure in Uruguay, and that the sentence imposed by the court was disproportionately harsh.

Abductions

From September 1981 to April 1982, *AI* obtained details of the arrest of some 64 suspected members of left-wing political parties and illegal trade union organizations. In at least 10 cases known to *AI*, persons were abducted by members of the security forces in the street, where there

were no witnesses to the arrest. The detention was not recognized by the authorities, and the family was not informed of the place of detention or the reason for the arrest for several months. During this period, the victim had "disappeared".

In most cases relatives actively sought information from the police authorities and the intelligence branches of the armed forces, but were unable to gain confirmation of the arrest or the place of detention.

In a meeting with one of the *AI* delegates, the Minister of Foreign Affairs stated emphatically that "disappearances" did not occur in Uruguay, and claimed that persons arrested were submitted to courts in accordance with accepted legal procedures. He did however concede that "subversives" might be held for periods longer than those permitted under civil legislation for the purpose of investigation, as a result of what he described as the need of the security forces to counter security measures adopted by clandestine groups to protect their members.

María Yvonne Klinger Larnaudie, who has French nationality, was arrested in the street on 31 January 1982. Her detention was not recognized and her family was unable to obtain official confirmation of her arrest and place of detention for several months. At the beginning of May 1982, an advertisement was placed in a Montevideo newspaper, *El Día*, appealing for information. According to one report she was later seen in custody in the military barracks of the *Grupo de Artillería No. 1*, Artillery Group No. 1, known as *La Paloma*. She was subsequently transferred to the regular military prison for women political prisoners, *Punta de Rieles*. In April 1983 she was awaiting trial on charges of *asociación subversiva*, "subversive association", which carries a penalty of three to 18 years' imprisonment, as a result of her alleged political activities as a member of the *Unión de Juventudes Comunistas*, Union of Communist Youth. The official date given for her arrest by the authorities was 23 April 1982.

Habeas corpus

In 18 of the arrests in 1981 and 1982 on which *AI* has information, the approximate length of time prisoners were reported to have "disappeared" following their arrest ranged from two weeks to seven months. In such cases, *habeas corpus* petitions have proved ineffective. After considerable delays (sometimes of months), the response most commonly received is that the person is not registered as detained. The party presenting the petition is in many cases unable to provide evidence of the arrest, or indicate the authorities responsible. The official decision to "recognize" the arrest appears to be taken at the discretion of the security forces, often only days before the detainee is called before the military examining magistrate at the close of the investigation *(pre-sumario)*.

The failure of the authorities to recognize detentions when they occur increases the risk of ill-treatment and torture during the period of interrogation following the arrest. The importance of the availability to the public of information on detentions was stressed by the Human Rights Committee in June 1982 in its General Comments under Article 40, paragraph 4, of the International Covenant on Civil and Political Rights:

> "Among the safeguards, which may make control . . . [of torture and similar practices] effective . . . are . . . provisions requiring that detainees should be held in places that are publicly recognized, *and that their names and places of detention should be entered in a central register available to persons concerned, such as relatives.*" (emphasis added)

'Disappearances'

Three persons who are believed to have been arrested in Montevideo in September 1981 and January 1982 remain "disappeared". They are Omar Antonio Paita Cardozo, a construction worker who "disappeared" after leaving his home on 21 September 1981, Félix Ortiz Piazzoli, who "disappeared" during the first week of September 1981, and Miguel Angel Mato Fagiani, an employee of the *Fábrica Uruguaya de Neumáticos S.A.* (FUNSA) factory in Montevideo, who "disappeared" on his way to work early on the morning of 29 January 1982. The authorities have denied that they are in custody, although one of them, Omar Paita, was allegedly later recognized in custody in a military barracks in Montevideo in a serious condition, apparently as a result of torture.

In view of the serious fears about the personal safety of these men, *AI* has urged the authorities to carry out a thorough investigation into their whereabouts and fate.

AI is concerned at the failure of the Uruguayan authorities to take effective action to clarify the fate or whereabouts of 120 Uruguayan citizens, including

Logares family—Claudio Ernesto Logares, Monica Grinspon de Logares and their daughter Paula Eva Logares. This family are Argentinian citizens who moved to Uruguay in May 1977. On 18 May 1978 they were forced by a group of armed men into two cars and have not been seen or heard of since. Claudio was working for a firm of accountants, Monica also worked in an office, the little girl attended a day nursery.

seven children, who "disappeared" following their abduction in Argentina during the period from 1974 to 1979. The majority were political refugees under the protection of the United Nations High Commission for Refugees.

Independent testimonies of Uruguayan citizens abducted in Argentina and subsequently released have provided disturbing evidence of the participation of members of the Uruguayan military intelligence and other security services in the interrogation and torture of Uruguayans held in secret detention centres in Argentina. Some of these persons were transferred in secret back to Uruguay, and subsequently charged and sentenced to imprisonment by military courts.

One such person, Enrique Rodríguez Larreta Piera, a well-known journalist, has provided evidence of the participation of Uruguayan security agents in the kidnapping in Buenos Aires, and subsequent secret deportation, of some 24 Uruguayans in July 1976.

Despite repeated attempts by relatives and human rights organizations to obtain official information on these cases, the fate and whereabouts of 43 others abducted in Argentina during the same year is still unknown.

In a broadcast to the nation on 28 April 1983, an Argentinian spokesman delivered a statement on events in Argentina in the 1970s, in which it was declared that all those reported to have "disappeared" in Argentina during this period must be considered dead. On 11 May 1983, *AI* sent a telegram to President Reynaldo Bignone expressing its dismay at this summary announcement, which, it pointed out, neither dispelled the anguish and uncertainty of the families of the "disappeared", nor satisfied the legitimate concern of the international community about these cases.

In its Memorandum to the Uruguayan Government, *AI* pointed out that the Uruguayan Government had an equal responsibility to clarify the whereabouts or fate of Uruguayan citizens who "disappeared" in Argentina, and to make this information public in each case.

Prisoners of conscience

AI is concerned about the continued detention of prisoners whom it believes to have been arrested and convicted on the basis of their political opinions or their non-violent political activities, and whom it thus considers to be prisoners of conscience.

Almost all such prisoners of conscience were arrested during the period following the dissolution of parliament by the armed forces in June 1973, and the subsequent introduction in December of a law banning political parties which had previously been legally recognized in Uruguay and had engaged in constitutional political activity. A previous law passed shortly after the closure of parliament had outlawed the *Convención Nacional de Trabajadores* (CNT), National Workers' Convention, Uruguay's largest trade union grouping, to which a wide range of trade unions were affiliated.

The majority of the prisoners of conscience have been convicted of membership of or support for these political parties or trade union organizations, or of illegal political or trade union activity.

These prisoners were sentenced to terms of imprisonment under the Law of State Security and Internal Order passed by parliament in July 1972. This law created a new category of offences "against the nation" and provided for civilians accused of these offences to be tried by military courts. The total number of persons convicted by these courts in the period between 1972 and 1982 is 4,873, according to official figures.

Many prisoners on whose behalf *AI* has been working appear to have been arrested either in relation to trade union activities or membership or alleged membership of or support for the *Partido Comunista del Uruguay* (PCU), Uruguayan Communist Party. Other prisoners of conscience were convicted of membership of the *Partido Socialista del Uruguay*, Uruguayan Socialist Party, which like the Communist Party, participated as a member party of the *Frente Amplio*, Broad Front, coalition in the 1971 elections. Other prisoners were accused of membership of smaller parties such as the *Grupo de Acción Unificadora*, Group for Unifying Action, the *Partido para la Victoria del Pueblo*, Party for the Victory of the People, and the *Partido Comunista Revolucionario*, Revolutionary Communist Party.

Before their arrest, these prisoners included politicians, officers in the armed forces, lawyers, doctors, university professors, teachers, journalists, students, writers and artists, and workers and craftsmen in many branches of industry.

The majority have been convicted of offences under Chapter 6 (bis) of the Military Penal Code. The prison sentences received range from four to 20 years; 29 prisoners have received heavy penalties of more than 10 years' imprisonment for one or more of these "offences".

The most common offence, "subversive association", which refers to the crime of associating in a group with the purpose of changing the constitution or form of government by illegal means, appears to have been routinely interpreted to include the mere fact of membership of, or support for an illegal trade union or political party, regardless of whether there was any evidence of an actual intent to resort to illegal or violent means to bring down the government or change the constitutional order.

In the period in question, from June 1973 until the present time, there have been no serious incidents of armed or violent political opposition in the country.

In a number of these cases convictions were obtained on the basis of retroactive charges relating to the period prior to December 1973, when these parties or trades unions were legal.

Trades unionists

Rosario Pietrarroia Zapala, a metal worker and former General Secretary of the National Union of Metal and Allied Workers, was arrested on 19 January 1976 and subsequently charged with "subversive association" and "attack on the constitution at the level of conspiracy". He was sentenced to 12 years' imprisonment in October 1979. The prisoner's family maintained that he was prosecuted and found guilty of acts which were not illegal at the time they were committed.

Rosario Pietrarroia

The Human Rights Committee set up under the International Covenant on Civil and Political Rights has concluded that the conviction of Rosario Pietrarroia was in contravention of Article 15(1) of the Covenant because the penal law was applied retroactively in his case. The Committee reached the same decision on the case of Ismael Weinberger Weisz, who was released from prison in January 1983 after serving in full an eight-year prison sentence for "subversive association".

Other prisoners have apparently been convicted on the basis of activities which have been prohibited by government decree although they are still protected as legitimate rights by the Constitution still in force, such as the right to engage in trade union activities, the right to strike and the right to peaceful assembly.

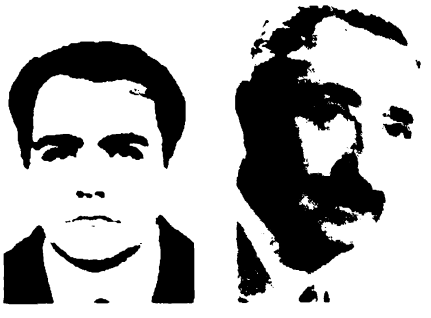
In May 1980 a group of trade unionists were arrested in connection with a May Day protest stoppage carried out by workers in the building industry and the banking sector. The main motive for the strike was to register protest against a government decision to move the day of the traditional May Day holiday from 1 to 5 May.

One of those arrested at this time, Gerardo Riet, a building worker, received a 10-year prison sentence on charges of "subversive association" and "attack on the constitution". Others who were accused of membership of SUNCA, the construction workers' union, received sentences of four or five years. Such arrests have continued: in 1981 and 1982 *AI* learned of the arrest and conviction of 30 trades unionists. *AI* considers all these persons to be prisoners of conscience.

Military officers

AI has taken up as prisoners of conscience 16 military officers who were supporters of the *Frente Amplio* in the parliamentary elections of 1971. They were all arrested between 1973 and 1976. The charges against them refer to the pre-election period of 1971 when they reportedly pledged themselves to defend the Constitution in the event of a military coup d'état.

One of the military prisoners, General Liber Seregni, was the presidential candidate of the *Frente Amplio* in the 1971 elections.



Captain Edison Ariel Arrarte Sánchez and General Liber Seregni

A second military officer, Captain Edison Ariel Arrarte Sánchez, was originally arrested in 1972 for trying to stop torture in the Infantry Regiment in the town of Salto where he was based. He was later released but rearrested in January 1976.

Altogether 20 military prisoners are being held in the prison of Punta Carretas and in the *Cárcel Central*, Central Prison, of the police headquarters in Montevideo serving sentences of between seven and 25 years' imprisonment.

Torture and cruel, inhuman and degrading treatment

Despite the existence of constitutional guarantees against arbitrary detention and ill-treatment of detainees, *AI* is concerned that in 1981 and 1982, as in previous years, detainees were held incommunicado without access to a lawyer for periods much longer than those permitted by law, and courts were unwilling or unable to enforce *habeas corpus* writs submitted on their behalf. Numerous allegations of the torture or ill-treatment of these persons have been received, although, to *AI*'s knowledge, none were investigated by the courts and in no cases did they lead to legal action.

Civil magistrates are unable to intervene in cases under the jurisdiction of military courts or in arrests carried out on the orders of the Executive under emergency powers. Guarantees against unlawful custody and the physical abuse of detainees can therefore only be enforced by military magistrates who, as serving officers in the armed forces, are therefore subject to military rank and discipline. *AI* knows of no recent cases in which military magistrates have ordered an investigation into an allegation of torture or ill-treatment or declared evidence obtained on this basis inadmissible.

Forced confessions

Cases have been reported in which military magistrates have themselves used threats to induce detainees to sign confessions in their presence. In April 1978 Washington de Vargas Saccone, who had been accused of serious crimes including murder, is reported to have been told by a military magistrate, Dr Carmelo Betancour, that if he refused to sign an official confession he would be handed over again to the intelligence branch of the armed forces for renewed interrogation. He refused, and a few days later was hospitalized in a coma after allegedly receiving a savage beating from a group of officers at Libertad Prison where he was detained. He was later removed from the Central Hospital of the Armed Forces to a military barracks and was allegedly tortured again. He eventually signed the declaration before the court. At no point was his confession deemed inadmissible because of the treatment to which he had been subjected.

Practices adopted for the arrest and questioning of political suspects include measures to prevent successful criminal proceedings against security officers accused of abuses against detainees: threats against detainees to return them to incommunicado detention if they report their treatment, the hooding of political prisoners to prevent them from identifying their interrogators, the allowing of sufficient time for the marks of torture to disappear before the detainee is brought before a magistrate, and the use of detainees' statements, signed under duress, to the effect that they have been well treated while in custody. Furthermore, in the case of those detained for political reasons, public allegations of torture or ill-treatment or investigations conducted by news media into such allegations are impeded because of the government censorship and the precautionary self-censorship of all news media and the danger of prosecution and penal action against the author, journalist or editor responsible for any such allegations.

Methods of torture

Evidence of torture is supported by testimonies received from ex-members of the armed forces who have described in detail the conditions which exist in army and naval detention centres, arrest procedures, and the techniques of torture allegedly employed routinely. The latter include forcing prisoners to wear hoods for weeks or even months on end, severe beatings, enforced standing for prolonged periods *(plantón)*, hanging from the wrists, knees and ankles, electric shocks applied to the most sensitive parts of the body *(picana eléctrica)*, near asphyxiation by means of the submersion of the head or upper part of the body in tanks of water, sometimes polluted by excrement *(submarino)*, the forcing of prisoners to sit straddling iron or wooden bars which cut cruelly into the groin *(caballete)*, burns, and sexual abuse and violation. Psychological methods which have been reported include verbal threats and abuse, simulated executions, forcing detainees to witness the torture of others, either directly or by means of tape recordings, threats of the torture of spouses or children, humiliation, and techniques of sensory disorientation.

Torture is reported to take place in

Continued on page 5

Tupamaros held in military barracks

AI continues to be concerned by the treatment and conditions of detention of nine political prisoners who were removed from the Penal de Libertad in September 1973 and who have been held ever since in military barracks in the interior of the country. All nine, Raúl Sendic Antonaccio, Eleutorio Fernández Huidobro, Jorge Amilcar Manera Lluveras, José Mujica Cordano, Jorge Zabalza Waksmann, Julio Marenales Saenz, Adolfo Wassen Alaniz, Henry Engler Golovchenko, and Mauricio Rosencof Silbermann, were accused of being leading members of the *Movimiento de Liberación Nacional - Tupamaros*, MLN - Tupamaros, an urban guerrilla organization active in the period from 1965-1972, and received prison sentences ranging from 30 to 45 years.

These prisoners have been held for nearly 10 years in solitary confinement cells intended for the temporary custody of soldiers, without room for movement or exercise, and without natural light or adequate ventilation or proper hygienic facilities.

There have been disturbing reports that some of these prisoners have been submitted periodically to torture. In September 1982 *AI* members wrote to the Uruguayan authorities expressing concern at reliable reports that Raúl Sendic had been transferred in August to a military barracks in Minas, where it was alleged that he was being tortured by immersion in icy water. There was further concern during May 1983 for Eleutorio Fernández Huidobro, following reports that he had been seen with

Raúl Sendic Antonaccio

marks of torture on his face and arms in the military barracks of Paso de los Toros, where he was currently being held.

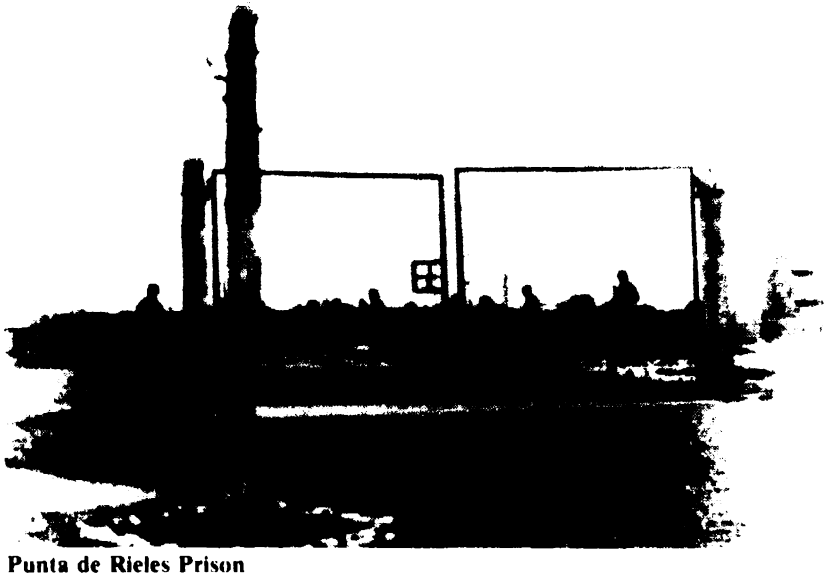
AI believes that the medical attention received by these prisoners has been seriously inadequate.

The other prisoners are reported to suffer from one or more of the following ailments: avitiminosis due to inadequate food and the lack of fresh air and sunlight, respiratory problems, serious impairment of vision and reflexes as a result of being held for prolonged periods in confined spaces with permanent artificial light, incontinence, dehydration, intestinal disorders, and severe psychological disturbances.

The treatment of prisoners in the military prisons

AI believes that prison conditions in the military prisons, *Penal de Libertad* and *Penal de Punta de Rieles*, do not meet the standards established in the United Nations Standard Minimum Rules for the Treatment of Prisoners, and that prisoners in both prisons have been subjected to cruel, inhuman and degrading treatment.

In general, allegations of physical attacks or brutality against inmates have been rare. However, AI remains concerned that the extreme measures taken to control every aspect of prisoners' lives and conduct, and the apparent severity and arbitrariness of disciplinary measures used, have created a climate of insecurity which has had serious implications for the physical and mental health of prisoners.



Punta de Rieles Prison

It is frequently alleged that officers responsible for the custody and welfare of prisoners in both prisons have themselves participated in interrogation and torture carried out in military barracks and other places of detention.

Prisoners are said to be subject to unreasonable restrictions on their ability to communicate with their families through the strict censorship and control of correspondence and visits, and their isolation is further accentuated by prohibitions on any form of communication with other prisoners, including family members, held in other parts of the prisons.

Prisoners are also subject to apparently arbitrary punishments and are reportedly intimidated and harassed by prison guards or officers by such methods as violent cell searches, the confiscation of reading material or handicrafts, and verbal threats or insults.

Penal de Punta de Rieles

During 1982 and 1983 AI has received reports of increasingly harsh treatment of women prisoners held in this prison. Prisoners are said to have to do heavy manual work in the prison kitchens from which only the seriously ill are exempt, or to have to carry out apparently pointless tasks designed to humiliate them. During 1982 AI received reports that isolation cells were being used on an increasing scale as a punishment, depriving prisoners for long periods from receiving visits, food parcels, or any contact with their families. Some of the women who are reported to have refused to clean parts of the prison used only by guards have allegedly been singled out for punishment in recent months.

Penal de Libertad

AI knows of a large number of male prisoners held in Libertad who are reported to be suffering from psychological problems or psychiatric illness. These prisoners are reportedly not allowed out of their cells except for one hour a day, and this right is also liable to be suspended as a punishment. They are believed not to receive any psychiatric treatment within the prison beyond the use of tranquillizers and anti-depressant drugs. There are disturbing reports of the forcible injection of powerful psychotropic drugs with potentially dangerous side effects, and of prisoners being forced to share cells with those with psychological disturbances, for whose care and control they are made responsible. The former have felt unable to provide proper care for their disturbed fellow prisoners, and their own mental health has thereby been put at risk. One prisoner, held on the second floor of the prison and serving a minimum sentence of 18 years, José Martínez Salgueiro, is believed to have been charged with "disrespect" and sentenced to an additional two years' imprisonment when he refused to share a cell with a disturbed fellow prisoner. José Martínez is reported to have been held continuously for 130 days in a punishment cell, and to have spent a total of two years of his prison term in conditions of strict isolation.

There is a high incidence of serious progressive illnesses in both prisons, such as coronary disease, cancer, respiratory disease, and other conditions which require careful monitoring and treatment.

Recent reports have indicated that medical care in Libertad Prison is currently provided by one military doctor assisted only by a military guard without medical training, who is responsible for the distribution of medicines to the prisoners. Routine medical care was previously provided by prisoners with medical training or experience, among them several qualified doctors who were allowed to carry out medical rounds of each floor of the prison daily. The present information indicates that this system has been suspended and that the specialized clinics which previously existed in the prison infirmary have been closed. The prison infirmary in which prisoners were previously allowed to work as nurses or to carry out administrative duties is now reportedly staffed entirely by military personnel.

AI has frequently appealed for proper medical care to be provided to prisoners, following reports of a deterioration in their condition which has prompted fears for their lives.

Torture and cruel, inhuman and degrading treatment

Continued from page 5

barracks belonging to the different branches of the armed forces, and in the intelligence branches of the police force.

Medical staff

Consistent allegations are made that medical staff at military or police detention centres assist or advise in the practice of torture. It is alleged that doctors examine detainees before the beginning of interrogation, make medical information available to officers in charge, and are on hand during interrogation both to revive victims, provide temporary relief through the administration of drugs and other treatment, and to advise officers when the victim's life appears to be at immediate risk.

The conduct of trials

Military justice over civilians, which runs against the legal tradition in Uruguay, was first introduced by the declaration of a State of Internal War on 15 April 1972.

In December 1975 a new law, No. 14,493, was passed which retroactively brought anyone accused of crimes against the security of the state under military justice, whatever the date of the offence, and even though sentence might have already been passed.

***AI* believes that the judicial procedures followed by military courts do not provide effective guarantees to the defendant of a fair and impartial trial, and that detainees lack effective legal guarantees against unlawful periods of imprisonment without due process.**

Legal guarantees

AI believes that the practice of holding suspects for long periods in detention following their arrest without access to a lawyer renders ineffective constitutional guarantees against torture and cruel, inhuman and degrading treatment, and the use in trial proceedings of confessions or other evidence obtained under duress.

Although defendants have the right to retract such confessions or statements before the military examining magistrate, few in fact do so. Most detainees must rely on court-appointed military officers as their defence lawyers at this stage, many of whom have no legal training and do not enjoy the confidence of their client. Even where the defendant or his family is able to appoint a civilian lawyer, no consultation is possible prior to the completion of the indictment proceedings before the military examining magistrate, at which the defendant is formally asked whether he "ratifies or rectifies" his previous statement to the magistrate. Until completion of the indictment the prisoner lacks guarantees that, in retracting his statement, he will not be returned to a military barracks for further interrogation and possible ill-treatment.

Defence

The majority of the prisoners rely either on court-appointed defence counsel or on unqualified military officers nominated to undertake defence work.

In the cases of prisoners who have private defence lawyers, the mission concluded that serious limitations and constraints still affected lawyers' ability to exercise fully their clients' rights to a properly conducted defence.

The practice of the submission to the military examining magistrates of "reserved" evidence based on a report on the case, drawn up by the security intelligence branches of the armed forces, appears to continue.

Lawyers are not provided with facilities for confidential consultations with their clients held in custody in military barracks or prisons. Even more serious are cases in which prisoners have been unable to communicate with their defence lawyers at any stage of the trial.

Lawyers indicated that they are obliged to conduct their work with caution in order to avoid possible recriminations for their client or attracting suspicion themselves.

Appeals procedures which are formally guaranteed in the Code of Military Penal Procedure are often rendered ineffective by the alleged failure to allow the defence reasonable time or facilities to prevent its case effectively.

AI considers that the limitations outlined above constitute a violation of the spirit of Article 14,3(b) of the International Covenant on Civil and Political Rights which states that "Everyone shall be entitled to the following minimum guarantees, in full equality . . . (b) To have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing."

Elena Vasilskis Castro was an 18-year-old student teacher at the time of her arrest on 4 June 1972. She was held incommunicado in a military barracks for three months and allegedly tortured. Prosecution asked for a sentence of 18 years' imprisonment but she was sentenced in December 1977 to 28 years plus nine to 12 years of precautionary detention. At the appeal hearing in May 1980 the Supreme Military Tribunal increased the sentence to 30 years with an additional five to 10 years of precautionary detention. The court hearing was held in secret and neither the defence lawyer nor the prisoner's relatives were present. As in the case of Elbio Ferrario, the court apparently did not take into account her age at the time of the alleged offence, although according to Uruguayan penal procedure, relative youth is considered to be an important attenuating circumstance.

Appeals

The possibility of an effective appeal against indictment, which is provided for under Article 178 of the Code of Military Penal Procedure, is limited by the fact that detainees are normally held incommunicado in a military barracks until they are brought before the examining magistrate, and are generally unable to communicate with a private defence lawyer at this stage.

The appeal, which is submitted to the *Suprema Corte de Justicia Integrada*, Integrated Supreme Court of Justice, (consisting of five civilian and two military judges) is subject to long delays and the defendant is not eligible for provisional release while the appeal is being considered.

According to Article 489 of the Code of Military Penal Procedures, final judgments imposing terms of imprisonment exceeding three years are not enforceable as long as they have not been fully reviewed on appeal by the *Supremo Tribunal Militar*, Supreme Military Tribunal. Both prosecution and defence are entitled to appeal, but if the sentence is over three years, the case is automatically passed up to the higher court.

Out of a sample of 60 cases on which *AI* has information, in only 12 cases was the original sentence reduced by the Supreme Military Tribunal on appeal. Of the remaining 48 cases, the original sentence was confirmed in 30 cases, and increased in 18.

Appeals against convictions by the Supreme Military Tribunal can be presented to the *Suprema Corte de Justicia Integrada* which has powers of *casación*, annulment, over such court decisions. However, *AI* knows of no case in which such appeals have been upheld.

Administrative detention

The *AI* mission sought to obtain information about the legal situation of 38 prisoners who have reportedly been kept in administrative detention as a precautionary measure under Article 168:17 of the Constitution following the expiry of their prison sentences.

Independent human rights sources claimed that decisions for the release of prisoners were taken by the *Organismo Coordinador de Operaciones Antisubversivas* (OCOA), combined anti-subversion operations command of the armed forces, which may overrule the courts, and that many of these prisoners had in fact received a notification from the court authorizing their release, but the release had not been carried out. Some lawyers expressed the view that one of the intentions of this use of precautionary detention was to oblige prisoners to leave the country on their release, since Article 168:17 provides the "option" to leave the country as an alternative to indefinite continued detention as a guarantee for detainees. (Uruguay has no legislation providing for the expulsion of citizens.) This view supported claims made by ex-prisoners held under these powers and released into exile that they had been told that they would be rearrested if they returned to the country.

Concern was aroused during 1982 by the continued detention of two prisoners, Jorge Hugo Selves Lawlor and Washington Pedro Guinovart Tonelli, who completed their sentences in February 1981 and June 1981 respectively. Reports indicate that in June 1982 Jorge Selves had been transferred from Libertad Prison to a military barracks in the provincial town of Florida with Juan Alfredo

Pino Garin, another prisoner also due for release. Juan Pino was reportedly found dead in his cell a few days later. Washington Guinovart is believed to have been transferred to the same barracks a month later. Jorge Selves reportedly left the country in September 1983.

AI believes that the detention without trial of prisoners who have served their sentences violates Uruguay's obligations under Article 9 of the International Covenant on Civil and Political Rights: "No one shall be subjected to arbitrary arrest or detention."

New trials

AI has also written to the Uruguayan authorities expressing concern about the apparent abuses in procedures used in trials of a group of over 20 prisoners at present serving prison sentences in Libertad Military Prison. Fifteen of these prisoners are reported to have already completed their original term of imprisonment, but remain in prison on new charges of "subversive association" and other charges relating to offences allegedly committed while they were in prison. They were accused of participating in a conspiracy to reactivate the *MLN - Tupamaros* guerrilla organization by developing contacts with Argentinian and Palestinian left-wing political organizations to carry out actions designed to culminate in an invasion of the country from Brazil.

These accusations were made publicly in the form of a newspaper article which was based on a statement by the Commander-in-Chief of the Second Army Division, General Julio César Rapela, and included photographs of several of the prisoners and of some of their relatives who were arrested in November 1980 and accused of assisting the conspiracy. The article was published in November 1980, shortly before the plebiscite of 28 November in which constitutional proposals drafted by the civil-military government were put to popular vote. *AI* does not know whether the charges related to evidence of actual conspiracy or other activities, or simply allegations of membership of a clandestine political group.

Some doubt was thrown on the plausibility of any conspiracy given the strict security measures adopted at Libertad Prison and the rigorous control of communication both between prisoners and the world outside.

During 1981 some prisoners who were interrogated and reportedly refused to cooperate by signing confessions or providing evidence were allegedly charged with *desacato*, contempt. Since legal representation is not allowed until after the accused has made a written statement to the investigating judge, prisoners who refuse to sign declarations are without legal advice although proceedings against them may continue.

AI believes that the new legal proceedings against these prisoners have not conformed to internationally recognized standards for a fair and impartial trial.

Deaths in custody

On 13 July 1982 *AI* wrote to the Uruguayan authorities appealing for an urgent investigation into the deaths of two prisoners, Edgar Sosa Cabrera and Juan Alfredo Pino Garin, who were being held in continued detention although they had both completed their prison sentences and the date of their release had been confirmed by the military court. Edgar Sosa was reported to have died during the last week of April 1982 while being held in isolation in an outbuilding at Libertad Prison. Juan Pino died on or around 16 June 1982 while in military custody in the barracks of the *Batallón de Ingenieros de Combate No. 2*, Second Batallion of Combat Engineers, in the town of Florida. The Uruguayan authorities have consistently maintained that rigorous measures are adopted to prevent the ill-treatment of detainees in the custody of police and military units, and in both cases military authorities claimed that the prisoners had committed suicide. Both men, however, were known to be awaiting their release after completing in full a long term of imprisonment, and Juan Pino had already received a visa to enable him to take up residence with his family in Sweden. He was not reported to be suffering from any form of physical or mental illness. In view of these circumstances, *AI* considered it imperative that a full investigation be carried out, given widespread fears that their death may have been the result of torture or ill-treatment received while they were being held incommunicado. No reply was received to *AI*'s communication, and it is believed that no action has been taken to establish the actual circumstances and causes of their deaths.

In its report submitted in February 1982 to the Human Rights Committee set up under the International Covenant on Civil and Political Rights, Article 40, the authorities appended a list of 16 cases in which convictions had been obtained against members of the security forces for abuses of authority against detainees held in their custody. However, no details were published of the incidents to which these convictions relate, of the sentences passed, or of the names of those convicted.

The organization does not consider that this information, by itself, provides evidence of a serious intent on the part of the authorities to prevent these frequently alleged abuses.

Testimony of Victoriano González Camargo

Victoriano González, previously a member of the Executive of the National Metal Workers' Union, was arrested on the street in Montevideo on 28 September 1981 with his nine-year-old son, by men claiming to belong to the Narcotics and Dangerous Drugs squad, who forced them into a car. After an argument with his captors, he was allowed to leave his son at his home with his mother-in-law. He was then hooded and forced to lie on the floor of the car. He was taken to a place which, from the duration of the journey, he believed to be the barracks of the 13th Armoured Infantry Regiment. On his arrival he was asked if he suffered from any illnesses, and his blood pressure was taken. After a time he was taken up a spiral staircase to an upper floor. There he was made to undress completely and was hung from a bar. In this position he was given electric shocks and beaten all over his body. After being subjected to this treatment for some time, a person he believed to be a doctor asked for him to be given a hot bath. He was vomiting, shivering and trembling convulsively. After about three hours he was made to stand upright with his hands against a wall and forced to keep this position most of five days and nights. During this time he was constantly and repeatedly interrogated. He was then taken upstairs again and hung from a bar in the ceiling. When he passed out as a result of the intense pain, he was let down. Some time later he was made to endure a further period of enforced standing for two days. During this time a person he believed to be a military doctor questioned him and took his pulse. At a later questioning, his interrogators promised to release him if he agreed to collaborate. He was told that he would be released, but that he would be taken into custody again after two weeks and if he tried to escape his family would be arrested. He was told that if he refused to collaborate he would be taken along by the security forces on later operations and denounced as an informer. He claims that staged photographs were taken of him by a hooded photographer, and that threats were made that the photographs would be handed out in the streets.

He was later allowed to wash, and during the night he was woken up and put in the same car in which he had been initially detained. The front seat was adjusted so that he could not be seen from outside. His blindfold was later removed, and he was put down in the street at about 12.30 am. During the time that he had been held (over three weeks) his family had received no information concerning his whereabouts.

Recommendations

1. *AI* recommends that the Uruguayan authorities publish and maintain a complete register of all those persons in custody under emergency provisions and sentenced by, or facing trial proceedings before, military courts for alleged offences *de lesa nacion* under the Law of State Security and Internal Order (1972).

2. *AI* urges the Uruguayan Government to ensure that all those prisoners held on the basis of their political beliefs or activities who have neither used nor advocated violence are released unconditionally in accordance with Uruguay's obligations under Articles 18, 19 and 21 of the International Covenant on Civil and Political Rights.

3. *AI* appeals to the Uruguayan Government to grant as broad an amnesty as possible to all those political prisoners sentenced by, or facing trial proceedings before, military courts.

4. *AI* urges the Uruguayan government to take effective measures to investigate and make known the whereabouts and fate of all those Uruguayans who are reported to have "disappeared" in cases where there is either evidence or grounds for believing that they were arrested by security forces,

(a) by interceding with the Argentinian authorities with a view to ensuring that a full investigation is carried out into the whereabouts and fate of all those Uruguayans who are reported to have "disappeared" in Argentina, and that its results are made public;

(b) by carrying out a similar investigation into the circumstances of the "disappearance" of Uruguayan citizens in Uruguay;

(c) by ensuring that, in either case, any Uruguayan officials or their agents found to have committed human rights violations in connection with the illegal kidnapping and "disappearance" of persons are brought to justice, and that the victims or their families obtain legal redress.

5. *AI* urges the Uruguayan Government to carry out a thorough investigation into the treatment of detainees held in the custody of the police and the armed forces, and to adopt the necessary measures to prevent torture and cruel, inhuman and degrading treatment. In the opinion of *AI*, the following minimum safeguards are necessary:

(a) that the existing constitutional provisions regarding the length of time any persons may be held in custody before being brought before a magistrate are strictly followed;

(b) that the security forces obtain and show judicial warrants before arresting suspects, and that the latters' families are promptly informed of their arrest and place of detention;

(c) that detainees have regular access to a lawyer and to their families as soon as possible after their arrest. All detainees should also have access to a doctor independent of the security forces at regular intervals afterwards, and before release from detention, and should be provided with appropriate medical treatment at all times;

(d) that the government ensure that courts fully investigate allegations of torture and ill-treatment, and do not proceed on the basis of evidence or confessions obtained from detainees where it is established that they were tortured or ill-treated while in custody, in accordance with Articles 10 and 12 of the United Nations Declaration on the Protection of all Persons from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

6. *AI* appeals to the Uruguayan Government to repeal the Law of State Security and Internal Order (No. 14,068) of July 1972, and to return the jurisdiction over the arrest, the custody and trials of civilians to civil courts, in accordance with the Constitution of 1967.

7. *AI* urges the Uruguayan Government to take steps to ensure that the medical attention and treatment of prisoners held in military prisons is brought into line with the requirements of the United Nations Standard Minimum Rules for the Treatment of Prisoners, and in particular, Rules No. 22(2), 24, 25(1) and 25(2).

22(2): Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals . . .

24: The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical and mental illness and the taking of all necessary measures

25(1): The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

25(2): The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

The organization further appeals to the government to carry out an immediate review of the regimes currently applied in the military prisons, and to ensure that these faithfully reflect the spirit of Article 57 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which states: "Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation."

8. *AI* urges the Uruguayan Government to take steps to ensure that Raúl Sendic Antonaccio, Eleutorio Fernández Huidobro, Jorge Amilcar Manera Lluveras, José Mujica Cordano, Jorge Zabalza Waksmann, Julio Marenales Saenz, Adolfo Wassen Alaniz, Henry Engler Golovchenko and Mauricio Rosencof Silbermann receive all necessary medical treatment and to arrange their early transfer to a regular prison run in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

9. *AI* urges the Uruguayan Government to ensure that prisoners are not held in custody after the expiry of their prison sentences without the legal authority of the courts.

A worldwide campaign . . .

Human rights are a human responsibility. Whenever they are violated people are the victims. They and their families need practical help.

The protection of human rights is an international responsibility. This principle is accepted by major world bodies such as the United Nations; governments are now publicly accountable to the world community for protecting the rights of their own citizens. That accountability includes accepting the right of international organizations to ask questions and express concern when people's rights are curtailed.

Amnesty International works on the basis of the universal human rights standards which the international community has proclaimed. If a state is violating those standards, Amnesty International comes to the defence of the victims.

Amnesty International began in 1961 with a newspaper article, "The Forgotten Prisoners", by British lawyer Peter Benenson. He urged people everywhere to begin working impartially and peacefully for the victims of political persecution. "Open your newspaper any day of the week and you will find a report from somewhere in the world of someone being imprisoned, tortured or executed because his opinions or religion are unacceptable to his government," he wrote. Within a month more than a thousand people from various countries had sent in offers of practical help. They were ready to help collect information on cases, publicize them and approach governments. What started as a brief publicity effort became a growing international movement.

Amnesty International now has more than 500,000 members, supporters and subscribers in over 160 countries and territories. They come from all walks of life, reflecting a wide variety of points of view. Most are organized into small local groups. There are now more than 3,000 groups in Africa, Asia, the Americas, Europe and the Middle East. Each group works on behalf of prisoners held in countries other than its own —emphasizing the need for *international* human rights work. No group or member is expected to provide information on their own country, nor do they have any responsibility for action taken or statements issued by the international organization concerning their country.

Financial independence

Amnesty International relies for its funding on donations from members and supporters. Its financial independence is vital to ensure its political independence. By far the greatest part of the movement's funds come from small, individual donations, membership fees and local fund-raising efforts. It does not seek or accept government money for its budget.

- You can add your name to Amnesty International's growing campaign. You can become a subscriber, join a local group, send in a donation and support our worldwide appeals. Use the coupon below.

Please detach this form and return to the Amnesty International section in your country or to: Amnesty International Publications, 1 Easton Street, London WC1X 8DJ, United Kingdom.

☐ I am ready to support Amnesty International's impartial campaign against violations of human rights wherever they occur. Please send me details of Amnesty International's work.

☐ I enclose a donation of _____ to help sustain Amnesty International's continuing research and action in defence of human rights. (Please make cheques or money orders payable to Amnesty International.)

Name _____

Address _____

_____

_____

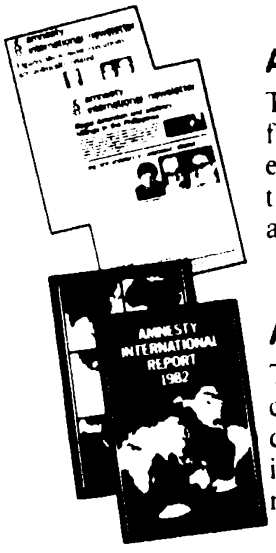
Information from Amnesty International

This briefing is part of Amnesty International's publications program. As part of its effort to mobilize world public opinion in defence of the victims of human rights violations, Amnesty International produces a monthly Newsletter, an annual report, and reports, briefings and other documents on countries in all quarters of the globe.

Amnesty International attaches great importance to impartial and accurate reporting of facts. Its activities depend on meticulous research into allegations of human rights violations. The International Secretariat in London (with a staff of 150, comprising some 30 nationalities) has a Research Department which collects and analyses information from a wide variety of sources. These include hundreds of newspapers and journals, government bulletins, transcriptions of radio broadcasts, reports from lawyers and humanitarian organizations, as well as letters from prisoners and their families. Amnesty International also sends fact-finding missions for on-the-spot investigations and to observe trials, meet prisoners and interview government officials. Amnesty International takes full responsibility for its published reports and if proved wrong on any point is prepared to issue a correction.

How to subscribe to Amnesty International

A subscription to Amnesty International will give you access to information about human rights abuses produced on a global, independent and impartial basis. You will also receive details on how you can help the people who are the victims.



Amnesty International Newsletter

This monthly bulletin is a regular update on Amnesty International's work: reports of fact-finding missions, details of political prisoners, reliable reports of torture and executions. It is written—without political bias—for human rights activists throughout the world and is widely used by journalists, students, political leaders, doctors, lawyers and other professionals.

Amnesty International Report

This annual report is a country-by-country survey of Amnesty International's work to combat political imprisonment, torture and the death penalty throughout the world. In describing the organization's work, the report provides details of human rights abuses in over 100 countries. It is probably the most widely read—and most influential—of the many reports published by Amnesty International each year.

Please detach this form and return to the Amnesty International section in your country or to: Amnesty International Publications, 1 Easton Street, London WC1X 8DJ, United Kingdom.

I wish to subscribe to the *Amnesty International Newsletter* and enclose one year's subscription (£5.00, US$12.50).

I wish to subscribe to the monthly *Amnesty International Newsletter* and yearly *Amnesty International Report* and enclose one year's subscription (£10.00, US$25.00).

Please send me further details of Amnesty International Publications.

Name _____

Address _____

_____

_____

aip

Amnesty International Publications