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UNITED KINGDOM

Ill-treatment and intimidation

AI is urging the UK Government to investigate the reported ill-treatment and threats of further ill-treatment of Damien Austin, a 17-year-old Catholic from West Belfast. AI has long been concerned about the intimidation and ill-treatment of suspects in police custody in Northern Ireland, and believes that existing procedures and safeguards are inadequate to prevent such ill-treatment.

Damien Austin has been detained twice in Castlereagh interrogation centre in Belfast in recent months. He was one of 18 young people arrested in May for questioning after the death of a police officer. Austin was held for three days and alleges that the interrogating officers abused him physically and made death threats. He was released without charge, but reportedly continued to be harassed by the police.

Austin was again arrested and taken to Castlereagh on 17 August. He was examined on arrival by a doctor, who found no marks on his body. He then underwent three interrogation sessions, each lasting up to four and a half hours. He claims to have been beaten during these sessions. A duty doctor examined him the following morning, reportedly noted fresh bruising, and gave him medication for the pain.

Austin maintains that the interrogations continued and the beatings became more severe over the next two days. On the evening of 19 August he was examined by his own doctor, who filed an affidavit in the High Court stating that he found "evidence of severe assaults to his body... Damien Austin is being subjected to severe ill-treatment and the Police Doctor agreed with me on this."

After this examination Austin was allegedly told: "Complain all you want. It's going to get worse." Detectives reportedly threatened Austin with further arrest and told him he would be shot dead by the Ulster Volunteer Force (UVF), a loyalist paramilitary group. On 20 August, after further interrogation sessions, he was released without charge. □

SRI LANKA

Human rights violations in a context of civil war

On 11 September AI issued a report on human rights violations in northeastern Sri Lanka, where violent conflict between the Sri Lankan security forces and the Liberation Tigers of Tamil Eelam (LTTE) resumed in June 1990.* The LTTE is fighting to establish a separate Tamil state — "Eelam" — in the Northeastern Province.

The report followed a two-week research visit to Sri Lanka in June. The AI team found evidence that thousands of unarmed members of the Tamil community, including women and children, had been killed or had "disappeared" after arbitrary arrest by the Sri Lankan security forces or Muslim or Tamil armed groups operating in conjunction with them. Victims had been shot, bayoneted, stabbed, hacked or beaten to death. Some were reportedly burned alive. Many people were apparently detained or killed simply because they had contact with members of the LTTE — sometimes of the most minimal kind — during the period the LTTE controlled the area.

Evidence also emerged of serious abuses by the LTTE, who control a substantial part of the northeast, particularly the Jaffna peninsula. Victims of LTTE abuses included large numbers of Sinhalese and Muslim civilians, among them women and children, as well as Tamil people considered "traitors". The LTTE has taken people into custody, including police officers, those in government service and "dissident" Tamils. Prisoners of the LTTE have been tortured and killed outright; it was the massacre of more than one hundred police officers who had surrendered to the LTTE in June 1990 that marked the opening of the current round of civil war in the northeast.

Most of the human rights violations highlighted in AI's report



Sri Lanka: The body of an extrajudicial execution victim was dumped in a crater and burned on tyres, allegedly by the security forces, at Kaluwanchikudy, Batticaloa District, in May 1991. The crater had been caused by an LTTE mortar bomb attack on the local Special Task Force camp in June 1990.

— extrajudicial executions and "disappearances" — were committed by government forces in the east and in other areas under their control. On 12 June two soldiers were killed in a land-mine explosion at Kokkadichchola, south of Batticaloa, one of the main eastern towns. In retaliation, soldiers from the local army camp went on the rampage in the nearby villages of Mahiladithivu and Muthalaikuda, killing at least 67 civilians, including women and children. Seventeen villagers from Muthalaikuda, including a 16-year-old boy, were reportedly taken to the site where the land-mine exploded, forced to circle the crater three times and then shot. Their bodies were dumped in the crater and burned.

AI has welcomed the decision by President Ranasinghe Premadasa to institute a commission of inquiry into this incident. The organization is calling for the findings of the inquiry to be made public.

The Sri Lankan Government apparently condones the summary execution of suspected members of the LTTE instead of insisting on their arrest, trial and punishment according to law. AI has submitted a number of recommendations to the government aimed at establishing viable procedures for investigating human rights violations and preventing further such abuses from occurring. The organization has suggested strengthening the work of the Commission of Inquiry into the Illegal Removal of Persons and the Human Rights Task Force, which have recently been established by the government to investigate and respond to evidence of human rights abuses. In particular, AI has urged the government to give people in the northeast greater access to these bodies.

*Sri Lanka: *The Northeast — Human rights violations in a context of armed conflict* (AI Index No. ASA 37/14/91). □

CAMPAIGN FOR PRISONERS OF THE MONTH



Each of the people whose story is told below is a prisoner of conscience. Each has been arrested because of his or her religious or political beliefs, colour, sex, ethnic origin or language. None has used or advocated violence. Their continuing detention is a violation of the United Nations Universal Declaration of Human Rights. International appeals can help to secure the release of these prisoners or to improve their detention conditions. In the interest of the prisoners, letters to the authorities should be worded carefully and courteously. You should stress that your concern for human rights is not in any way politically partisan. In no circumstances should communications be sent to the prisoner.

— GREECE —

Timotheos Kabourakis: *aged 20, he is serving a four-year prison sentence in Kassandra Agricultural Prison for refusing to perform military service.*

Timotheos Kabourakis is a Jehovah's Witness whose religious beliefs do not permit him to serve in the armed forces in any capacity. He has been in prison since 14 May 1990, when he appeared at a military camp in Crete in response to call-up instructions. Upon declaring himself opposed on religious grounds to serving in the armed forces he was immediately put in a disciplinary cell where he was held for two months before being transferred to Avlona Military Prison. On 25 June 1990 he was convicted by the Military Court of Crete of "in-

service of non-punitive length. A draft law drawn up in 1988 by a former Greek Government which provided for alternative civilian service double the length of military service has still not been passed.

■ Please send courteous appeals for the release of Timotheos Kabourakis and the other 400 imprisoned conscientious objectors and the introduction of alternative civilian service of non-punitive length for conscientious objectors to military service to: Mr Ioannis Varvitsiotis/Minister of National Defence/Ministry of National Defence/Holargos. (Pentagono)/Athens/Greece. □



Timotheos Kabourakis

subordination during a period of general mobilization". In June of this year he was transferred to Kassandra Agricultural Prison.

Some 400 conscientious objectors, nearly all Jehovah's Witnesses, are serving prison sentences in Greek jails. AI considers them all to be prisoners of conscience.

Greek law does not permit conscientious objectors to perform alternative civilian service. They are allowed to carry out four years of unarmed military service, double the length of military service, but for most of them service in the armed forces in any capacity is irreconcilable with their beliefs.

The right to refuse military service for reasons of conscience has been recognized by the United Nations Commission on Human Rights, the Council of Europe and the European Parliament. These bodies have called on states to refrain from imprisoning conscientious objectors and instead to grant them the right to perform alternative civilian

— UNITED STATES OF AMERICA —

Enrique González: *a 25-year-old law student and reservist in the US Marine Corps, he was arrested on 26 December 1990 and charged with desertion and "missing movement" (failure to report for active duty). He was sentenced on 25 May 1991 to two-and-a-half years' imprisonment.*

As a result of the invasion of Kuwait by Iraq in August 1990 and the deployment of US troops to the area, Enrique González's unit was called for active duty in November 1990. He is among hundreds — and possibly thousands — of US armed forces members who refused to report for duty and filed application for conscientious objector status.

Enrique González enlisted in the US Marine Corps Reserve in 1984 at the age of 18 without, he said, "ever stopping to think about my feelings towards war. The beliefs which have compelled

me to apply for conscientious objector status, at this time, have gradually developed with education and life experience. Today, I am refusing to take arms to kill other human beings and I oppose war because I believe that it is wrong, immoral and unethical to kill another human being."

Although the US armed forces are made up of volunteers, the Military Selective Service Act does allow for the granting of conscientious objector status. The investigating officer acting on Enrique González's application for conscientious objector status recommended that it be granted.

Conscientious objection to military service is recognized by the United Nations as a legitimate exercise of the right to freedom of thought, conscience and religion. AI considers as prisoners of conscience those who for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical, political or similar motives refuse to perform armed service or undertake any other direct or indirect participation in wars or armed conflict.

■ Please send courteous letters appealing for the immediate and unconditional release of Enrique González to: President George Bush/The White House/1600 Pennsylvania Avenue/Washington DC/20500/USA. □

— INDONESIA —

Bonar Tigor Naipospos: *a 29-year-old post-graduate student of political science at Gajah Mada University, Yogyakarta, he was arrested in June 1989 in Jakarta. He was convicted of subversion in October 1990 and sentenced to eight-and-a-half years' imprisonment. In January 1991 the sentence was upheld by the High Court in Yogyakarta.*

Bonar Tigor Naipospos was accused of spreading Marxist ideas and attempting to undermine the Indonesian state ideology, *Pancasila*, through participation in a study club and distribution of banned literature. At his trial, one of the defence witnesses, a lecturer at the Gajah Mada University, testified that informal discussion groups were a common and positive feature of university life, and were encouraged by the professors as an important part of intellectual development.

The charges against Bonar Tigor Naipospos were also related to the conviction of two other students, Bambang Isti Nugroho and Bambang Subono, in 1988. The two were charged with sub-

version because of their involvement in an informal study group, and with possession of banned books, including some by the renowned Indonesian author Pramoedya Ananta Toer. Bonar Tigor Naipospos was accused of giving books by Pramoedya Ananta Toer to Bambang Subono to sell in 1988, a charge which the latter denied in court.

AI believes that Bonar Tigor Naipospos' imprisonment is a denial of the right to freedom of expression and opinion and the right to impart information to others. Available trial documents and press reports of the proceedings suggest that his trial was intended to intimidate government critics, despite President Suharto's recent calls for greater political openness.

■ Please send courteous letters appealing for Bonar Tigor Naipospos' immediate and unconditional release to: President Suharto/Presiden RI/Istana Negara/Jalan Veteran/Jakarta/Indonesia. □

PRISONER NEWS

AI learned in July 1991 of the release of 57 prisoners under adoption or investigation. AI took up 94 cases.

CORRECTION: On page 8 of the September AI Newsletter the Political-Military Command in Peru was incorrectly quoted. The final sentence in the article should have read: The Political-Military Command ... concluded that Juan Salomé had never been in the custody of the military and that he and other official persons were being manipulated by "subversive elements" as part of a campaign to discredit the security forces.



FOCUS

amnesty
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According to international law, prisoners whose crimes were committed before their 18th birthday should not suffer the death penalty. Only seven countries worldwide are known to have executed juvenile offenders in the last 10 years; the largest confirmed number of such executions has been carried out in the United States of America. There are more juvenile offenders on death row in the USA than in any other country. Young people on death row in the USA come overwhelmingly from acutely deprived backgrounds, have been physically or sexually abused, and suffer from mental illness or brain damage. Yet in a disturbingly large number of cases, these potentially mitigating factors were never considered by the courts that imposed their death sentences.

On 11 September 1985 the state of Texas executed Charles Rumbaugh for a crime he committed when he was 17 years old. This was the first execution of a juvenile offender in the USA for more than two decades. Since then, three more juvenile offenders have been executed. More than 90 juveniles have been sentenced to death in the USA since the mid-1970s; most have had their death sentences reversed on appeal but at least 31 others remain on death rows in 12 states across the country.

Rumbaugh was convicted and sentenced to death for murdering jewellery store owner Michael Fiorillo in April 1975. Rumbaugh had attempted to rob the jewellery store at gunpoint and Fiorillo, aged 58, reached for his own gun and was fatally shot in the ensuing struggle.

Rumbaugh had spent most of his childhood in a series of reform schools and mental institutions; by the time he reached adulthood, his body was covered in scars from suicide attempts and acts of self-mutilation. In a letter to a pen-friend written 18 months before his execution, Rumbaugh said: "I started making mistakes at a very young age and never changed before it was too late. I was 17 years old when I committed the offence for which I was sentenced to die, and I didn't even start thinking and caring about my life until I was at least 20." Rumbaugh was 28 years old when he was executed by lethal injection.

James Terry Roach was electrocuted in South Carolina on 10 January 1986. Roach was convicted and sentenced to death for the rape and murder of a 14-year-old girl, and the murder of her 17-year-old boyfriend. Roach was



In 1988 an Alabama jury convicted 15-year-old Clayton Flowers of capital murder and recommended a sentence of life in prison without parole. The judge rejected the recommendation and sentenced Flowers to the electric chair. In July 1991 his conviction and sentence were overturned.

USA: Juveniles and the death penalty

17 at the time of the crime. One of his two co-defendants, 22-year-old Joseph Shaw, was also sentenced to death and was executed in 1985. The third defendant, a boy of 16, turned state's evidence and was given a prison sentence.

Roach pleaded guilty, so the

case was never heard by a jury. The trial judge agreed that six mitigating circumstances were present in the case, including the fact that Roach had no previous record of violence, was emotionally immature and mentally retarded, and that he was a minor

with a passive dependent personality acting under the domination of an adult ringleader (Shaw). Nevertheless, the judge sentenced Roach to death on the grounds that these factors were outweighed by the "heinousness" of the crime. Roach had been represented by a court-appointed attorney, who was later disbarred from practising law. The Governor of South Carolina ignored appeals from Mother Teresa, former President Jimmy Carter and the United Nations (UN) Secretary General, and denied Roach's petition for clemency, despite the mitigating factors and new evidence that Roach was suffering from a degenerative brain disease.

Dalton Prejean was electrocuted in Louisiana on 18 May 1990. Prejean, who was black, was convicted and sentenced to death for the 1977 murder of a white police officer. The 17-year-old offender was tried and sentenced by an all-white jury after the prosecutor used his peremptory challenges (the right to reject potential jurors without explanation) to exclude black people from the jury panel. Prejean was mentally retarded and had a history of mental illness and childhood abuse—factors which were not presented to the jury during the sentencing stage of his trial. The state governor denied clemency, despite a recommendation by the Louisiana Board of Pardons and Paroles that his death sentence should be commuted to life imprisonment without parole.

Twenty-four of the 36 US states with current death penalty statutes allow the death penalty to be imposed on juvenile offenders. The laws of eight states, reinforced by a 1989 Supreme Court decision that the execution of offenders as young as 16 is permitted under the



James Terry Roach, electrocuted in South Carolina in 1986, had been sentenced to death for a crime committed when he was 17 years old. Roach had no previous record of violence and was mentally retarded.

US Constitution, set a minimum age of 16 or 17 in their capital punishment statutes. In eight other states, the minimum age is set between 12 and 15 years. Five states have no minimum at all, although judges and juries are required to consider age a mitigating factor when imposing the death penalty. Three states—Delaware, Oklahoma and South Dakota—specify neither minimum age nor age as a mitigating factor.

AI's research findings

AI has reviewed the cases of 23 juvenile offenders sentenced to death in the USA since 1976, 14 of whom remained on death row as of 1 July 1991. In most of these cases AI obtained information about the crime and background of the defendant from sentencing reports, grounds of appeal filed, court judgments, clemency petitions and psychiatric testimony. The US Supreme Court has recognized the need for particular care and scrutiny in capital cases involving juvenile offenders. The evidence examined by AI demonstrates that these criteria have not been met.

The overwhelming majority of juvenile offenders in AI's study came from acutely deprived or unstable family backgrounds. Many were brought up in the absence of one or both parents, and most of them suffered serious physical or sexual abuse. Joseph

Cannon, who was sentenced to death in Texas in 1982, had been so brutally sexually and physically abused as a child that the psychologist reviewing his case concluded that "even in the worst of case histories one seldom encounters traumatization as heinous and extreme as those to

mates had sustained serious head injuries in childhood; nine of them had extensive neurological abnormalities, including brain injuries; and seven had been diagnosed as psychotic. Twelve of the 14 had IQ scores well below normal; at least four were borderline mentally retarded. Twelve of the subjects had suffered brutal physical abuse from parents, at least five of them had been sodomized by older male relatives; in one case the sexual abuse started at the age of five. The inmates and many of their parents had histories of alcoholism and drug abuse.

The existence of an acutely deprived background, physical and sexual abuse, brain damage and mental illness, coupled with the youth of the defendants, should have provided compelling mitigating evidence against the death sentence. However, the study found that most of the juvenile offenders on death row lacked the knowledge and experience to realize this; many were ashamed of their poverty and their parents' brutality or sexual abuse, and consequently tried to conceal the very evidence most likely to prevent them from being sentenced to death. The parents were often reluctant to disclose their own abusive behaviour, even when such evidence would be likely to help the defendant. In some cases, family members requested that histories of abuse be minimized, cooperated with the prosecution, testified against their own relatives and urged judges to impose death sentences.

Before the death sentence of William Wayne Thompson, a 15-year-old offender in Oklahoma, was overturned by the Supreme Court, he told a television interviewer:

"A 15-year-old doesn't consider death as happening to them. I mean, ask any 15-year-old would they believe they are gonna die if they did something. They'll tell you no."

which [Cannon] was subjected while growing up." The psychologist noted that Cannon's home environment had been so depraved and oppressive that the conditions on death row represented a significant improvement, leading to progress in his aptitude, self image and IQ during his time in prison.

In 1986 and 1987 a team of psychiatrists and neurologists studied all of the juvenile offenders on death row in Florida, Georgia, Oklahoma and Texas. The team discovered that all 14 of the in-

trial experience and severely limited financial resources. Some of the defence lawyers did not investigate their clients' background or psychiatric history, and spent little time preparing their cases for trial. In at least nine of the cases reviewed by AI, lawyers handling later appeals discovered important mitigating evidence which had not been presented at the trial or sentencing hearing.

In Mississippi, the court-appointed lawyer who represented David Tokman, a 17-year-old offender, spent less than seven hours preparing the case for trial and conducted no investigation into Tokman's background. Tokman and two older men were accused of robbing and murdering a taxi driver in August 1980. The prosecution case rested on the testimony of one of Tokman's accomplices, Jerry Fuson, who had not actually witnessed the killing. Tokman's lawyer made no effort to interview Fuson before the trial, or to challenge his testimony in court. Although Tokman was the youngest of the three accused, and had no prior record of violence, his attorney failed to contest the prosecution's assertion that Tokman was more culpable than his accomplices.

The defence counsel had not arranged an independent psychiatric assessment of Tokman, despite evidence suggesting he had a "death wish", had been abusing drugs and had been neglected and physically abused by his father. During the sentencing phase of the trial, no mitigating testimony from Tokman's friends or relatives was presented. During a later appeal hearing, relatives and neighbours testified that despite an abusive and unstable family background, Tokman was widely regarded as hard-working and considerate. Psychiatric experts testified that he had a high potential for rehabilitation. In 1988 a federal circuit court overturned Tokman's death sentence after finding that the conduct of his trial attorney was below reasonable standards and had prejudiced the outcome of the sentencing hearing. Tokman is currently awaiting a new sentencing hearing, scheduled for September 1991, at which he could again be sentenced to death.

In Texas the two court-appointed lawyers who represented Robert Carter, a 17-year-old offender, made only minimal efforts to speak to their client before trial, locate potential witnesses or present mitigating evidence. They failed to request a pre-trial assessment of Carter's mental capacity even though they apparently suspected that he might be retarded. Carter's defence counsel allowed numerous procedural errors on

Inadequate legal representation

The defence lawyers who should have been relied on to unearth and utilize such information, both in the trial and sentencing phases of the cases, often failed to do so. Virtually all juvenile offenders came from indigent families and so were represented by court-appointed lawyers or public defenders. Despite the complexity of capital trials, many of the young defendants were assigned lawyers with little or no criminal



Sean Sellers, a 16-year-old offender, was sentenced to death in Oklahoma in 1986. At the sentencing phase of the trial the jury was not instructed that Sellers' age at the time of the crime was a mitigating factor. Psychiatrists believe Sellers suffers from severe emotional disturbances. His conviction and death sentence are currently on appeal.

the part of the prosecutor to pass without objection, and some of their remarks to the jury were prejudicial to their own client. During sentencing, they did not invite the jury to consider as mitigating evidence Carter's age at the time of the crime, the fact that he was mentally retarded and had suffered brutal physical abuse as a child, or that he had no previous criminal record.

A post-trial psychiatric examination revealed that Carter was mentally retarded and seriously brain damaged, with limited capacity to understand his own actions or those of others. He was said to be unusually subservient to authority figures, a factor which may have influenced his decision to waive his right to a lawyer and make a full confession at the time of his arrest. Previous employers described him as obedient, hard-working, cooperative and trustworthy. None of them had been asked to testify at his trial.

In Louisiana in 1987, the two inexperienced public defenders representing 15-year-old Troy Dugar offered no defence evidence at all, and their client was found guilty of capital murder. At the sentencing phase of the trial, they neglected to emphasise his age at the time of the crime, which should have been a major mitigating factor. They also failed to mention the defendant's long history of psychiatric illness, his low IQ, a family history of alcoholism and the fact that he himself had started drinking at the age of six and was an alcoholic by the age of 12. The "mitigation" evidence they did manage to produce was

damaging to their own client: the testimony of a doctor who claimed that Dugar was "sociopathic" and had no other mental disorder.

The following year, Dr Howard Albrecht examined Dugar and found him to be schizophrenic and mentally retarded. In his opinion Dugar had been incompetent to stand trial. Since he has been on death row, Dugar has reportedly suffered violent fits and hallucinations and has spent long periods under heavy sedation.

In a number of cases, defence lawyers failed to order independent psychiatric examinations because funds to pay for such examinations were not available, and potentially crucial information was thus not presented to the jury. In Georgia a psychologist acting as a witness for the state testified that a defendant, whom he had never interviewed in person, was a "sexual sadist", likely to commit violent sexual acts in the future. The defence was unable to provide any professional rebuttal testimony because their request for funds for a psychiatric evaluation had been denied. The defendant, a 17-year-old offender, spent eight years on death row before her death sentence was vacated by a District Court in 1989. The District Court held that the original trial court should not have denied funds for an independent psychiatric evaluation, and that the testimony of the state psychologist had been unreliable.

Although all death sentences handed down in the USA are automatically appealed to the relevant state supreme court, serious and avoidable errors on the part

of defence counsel cannot always be remedied. Failure to object to jury composition, trial venue or other violations of a defendant's constitutional rights are not normally considered on appeal, even though they may have jeopardized the fairness of the proceedings.

Sentencing

US law requires all capital cases to be heard under a two-phase procedure, in which verdict and sentence are determined separately. If a defendant is convicted of capital murder during the trial phase, the court then conducts a separate sentencing hearing, usually before the trial jury. During the sentencing hearing, the defence has the opportunity to present evidence in mitigation—including testimony on the defendant's background, age, and character—aimed at justifying a prison sentence, rather than the death penalty.

The jury that sentenced Dalton Prejean to death was not informed of Prejean's history of childhood abuse, nor about his documented history of mental illness and brain damage. Shortly before Prejean was executed in 1990, one of the original trial jurors appealed to the Governor to grant clemency. The juror had examined information not available at the trial, and had concluded: "I would, if I had another opportunity, vote against the death penalty in favour of institutionalization." Under Louisiana law, the jury must be unanimous in recommending the death penalty; if even one juror dissents, the sentence imposed must be life imprisonment.

In some states juveniles charged with capital crimes are automatically tried in the adult criminal courts, which alone have the power to impose the death sentence. In other states a juvenile court decides whether or not to transfer the case to the jurisdiction of the criminal court. In the cases examined by AI, the juvenile courts did not appear to consider the emotional maturity of the defendant when deciding whether he or she should be tried as an adult. Juveniles charged with capital crimes were commonly sent to the adult criminal court simply because the juvenile system maintains no facilities for long-term incarceration. In one Kentucky case, the juvenile court specifically found that the defendant was "emotionally immature and could be amenable to treatment if properly done on a long-term basis..." However, the court ordered the case to be transferred to the adult court—where the defendant was subsequently sentenced to death—as the state did



In 1986 Paula Cooper was convicted of a murder committed when she was 15 years old. She was sentenced to die in Indiana's electric chair. After three years on death row, her death sentence was set aside by the Indiana Supreme Court, which ruled that because of her age at the time of the crime, the death sentence was a disproportionate punishment.



Jay Kelly Pinkerton was sentenced to death in Texas for a murder committed when he was 17 years old. In 1985 the Supreme Court granted a stay of execution 20 minutes before the execution was due to be carried out; a second reprieve came four months later. In May 1986, the Supreme Court rejected his final appeals and Pinkerton was executed by lethal injection.



In 1990 the state of Louisiana electrocuted Dalton Prejean, despite a recommendation by the Pardons and Parole Board that his sentence be commuted to life imprisonment. He had spent nearly 13 years on death row. Prejean, who had once been diagnosed as brain damaged and mentally retarded, said shortly before his execution: "I don't ask to get out of prison. I just ask to live with my mistake...I've changed. There's a whole difference between being 17 and 30."

not provide long-term youth rehabilitation programs.

Conditions on death rows in the USA are generally harsh; most prisoners sentenced to death have no access to prison work, vocational training programs or group educational classes. They are typically confined alone, in small, poorly-equipped cells, with limited opportunities for association with other prisoners and no access to rehabilitative treatment. Such conditions are particularly damaging to juvenile offenders, many of whom eventually have their death sentences overturned on appeal.

International law

International law unanimously prohibits the imposition of the death penalty on juvenile offenders. Article 6(5) of the International Covenant on Civil and Political Rights (ICCPR) states: "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women." Article 4(5) of the American Convention on Human Rights contains a similar provision. The US Government signed both of these treaties in 1977, but has not yet ratified them.

These international standards were developed in recognition of the fact that the death penalty, with its uniquely cruel and irreversible character, is a wholly inappropriate punishment for those who have not attained full physical or emotional maturity and are thus widely recognized as being less responsible for their actions.

The existence of the death penalty undermines the foundations of the criminal justice system by ruling out the possibility of rehabilitation. The execution of young people is particularly abhorrent because their personalities and patterns of behaviour are not fixed and they are more likely than adults to be successfully rehabilitated. Moreover, the young people on death row will not be killed until they have grown to adulthood while appealing their sentences. By the time they are put to death, they may bear little resemblance to the teenagers who committed their crimes.

Supporters of the death penalty often point to its supposed deterrent effect. Detailed research in the USA and other countries has failed to provide evidence that the death penalty deters crime more effectively than other punishments; some studies have found that the "brutalizing" effect of executions actually increases the rate of violent crime. The deterrence argument is even less persuasive

when applied to juveniles. Professor Victor Streib of the College of Law at Cleveland State University, who has conducted detailed studies of juvenile offenders, concluded: "It seems clear that few adolescents have any meaningful concept of death. In fact, they seem to be attracted to death-defying behaviour, the threat of a death penalty may actually encourage some juvenile crimes."

US Supreme Court rulings

During the 1980s the US Supreme Court was asked to rule on whether the execution of juveniles was permissible under the Constitution. Lawyers handling these appeals argued that the execution of juvenile offenders constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the Constitution.

In 1982 the Supreme Court vacated the death sentence imposed on Monty Lee Eddings, a 16-year-old offender, on the grounds that the trial judge had refused to consider mitigating evidence at the sentencing hearing. Although the Court failed to rule on the question of whether the death penalty was necessarily cruel and unusual punishment when imposed on a 16-year-old, the Court noted "just as the chronological age of a minor is itself a relevant mitigating factor of great weight, so must the background and mental and emotional development of a youthful defendant be duly considered in sentencing". As AI's findings demonstrate, these principles have been ignored in sub-



Troy Dugar, a 15-year-old offender, was sentenced to death in Louisiana in 1987. Dugar has a long history of psychiatric problems and is borderline mentally retarded — facts which were not presented to the jury during the sentencing phase of his trial. Since the trial he has suffered violent fits and hallucinations. In 1988 the Louisiana Supreme Court ruled that Dugar was "incompetent" to appeal his case, and he was returned to death row to await further proceedings.

described the ruling as "a retrograde step for international human rights". Justice William Brennan, dissenting from the majority, noted that "within the world community, the imposition of the death penalty for juvenile crimes appears to be overwhelmingly disapproved". The execution of juveniles, he said, made no meas-

tal influence (both positive and negative), and as a result less responsible and less culpable in a moral sense than adults". The ABA acknowledged that some minors charged with serious crimes must be tried and sentenced in the adult criminal courts, but added: "They should not be held to the degree of moral accountability necessary to justify the ultimate sanction of execution."

All of the juvenile offenders on death row were convicted of murder, some committed in particularly brutal circumstances. AI does not argue that juveniles should not be held criminally liable, or subjected to severe punishment where appropriate. However, AI is unconditionally opposed to the death penalty because it is a violation of the fundamental right to life and the right not to be subjected to cruel, inhuman or degrading punishment.

The death penalty is premeditated and cold-blooded murder on the part of the state, and can never be justified as a fitting response to violent crime, however repugnant. There must be restraints on the actions governments can take to punish individuals. As a first step towards the total abolition of the death penalty, and to bring the USA into minimal conformity with international standards, the line must be drawn at the age of 18. □

"A decent society places certain absolute limits on the punishments that it inflicts — no matter how terrible the crime or how great the desire for retribution. And one of those limits is that it does not execute people for crimes committed while they were children."
New York Times, June 1984

sequent cases involving juvenile offenders.

In 1989, by a narrow 5-4 majority, the Supreme Court upheld the death sentences imposed on Kevin Stanford and Heath Wilkins, who were sentenced to death for murders committed when they were 17 and 16 respectively. Writing for the majority, Justice Antonin Scalia said that US society had formed no consensus that such executions constitute "cruel and unusual punishment", and rejected evidence suggesting that the death penalty had no deterrent effect on juveniles. AI

unable contribution to acceptable goals of punishment.

A significant body of professional opinion in the USA, including the American Bar Association (ABA) and the National Council of Juvenile and Family Court Judges, likewise condemns the imposition of the death penalty on juvenile offenders. In a brief submitted to the US Supreme Court in 1989, the ABA argued that "our society recognizes that minors are less mature, less experienced, less able to exercise good judgment and self-restraint, more susceptible to environmen-

MYANMAR

Violations against ethnic minorities

FOR decades, armed ethnic minority insurgents in rural Myanmar have been fighting the central authorities. During counter-insurgency activities, the Myanmar armed forces have routinely committed widespread human rights violations against civilians.

In August AI published *Myanmar (Burma): Continuing killings and ill-treatment of minority peoples**, which documents the arbitrary seizure, ill-treatment and extrajudicial execution of members of the Karen, Mon and Indian ethnic minorities by the Myanmar armed forces.

In June and July AI interviewed people along the border between Thailand and Myanmar who had recently fled their homes in Myanmar. Many had been victims of human rights violations or had witnessed such violations against others. The testimonies gathered by AI confirmed that many people seized for work as porters or to clear mines have been deliberately killed or tortured. One 30-year-old epileptic Indian woman was beaten to death by soldiers because she suffered a seizure which made it impossible for her to continue work as a porter.

Other victims included people who were detained and ill-treated, or deliberately killed because soldiers suspected they sympathized with or supported armed ethnic minority groups.

The cases demonstrate that the Myanmar armed forces exercise the *de facto* power to arbitrarily detain, torture or kill people. □

*AI Index No. ASA 16/05/91

MAURITANIA

Hundreds of prisoners killed in custody

SOME 339 political prisoners were reportedly killed in Mauritania's prisons, military barracks or police stations between November and March 1991. The victims were among thousands of black Mauritians arrested in November and December 1990.

Eyewitnesses reported that more than 140 detainees were deliberately executed without trial or tortured to death. A further 200 reportedly died in custody as a direct result of torture or ill-treatment, including extremely harsh prison conditions. Former prisoners have told AI that many detainees were severely beaten, had their genitals tied tightly with a cord or were burned in the eyes

with cigarettes.

Most of the detainees were army officers or civil servants belonging to a single black ethnic group from the south, known as the *Hal-Pulaar* or *Fula*. They were rounded up in the country's two largest cities in November and December 1990, following an alleged conspiracy to overthrow the government. However, no independent evidence tying the suspects to a coup plot has emerged and it appears that most were arrested because of their ethnic origin. Black Mauritians have long been the target of abuses by government forces — who are predominantly of Arab origin — with arrests, torture and extrajudicial

executions routine in the south of the country.

In April 1991 AI called on the Mauritanian Government to investigate reports that more than 200 political prisoners had died, but the authorities refused to acknowledge that any deaths had occurred. Since then the organization has received confirmation that 339 named prisoners are missing, and fears that all of them have died or been killed in custody. AI has repeated its demand for an independent public inquiry to ascertain the fate of all those who are still missing, and to establish how many were killed and how they died so that those responsible can be brought to justice. □

Guide to the African Charter

ON 21 October — African Day of Human and Peoples' Rights — the Organization of African Unity's (OAU) African Charter on Human and Peoples' Rights will have been in force for five years. To mark this anniversary AI has produced an illustrated booklet, *A Guide to the African Charter on Human and Peoples' Rights*, which explains the Charter in non-technical terms. AI members are sending copies of the booklet and the full text of the Charter in Arabic, English, French, Portuguese, Spanish and Swahili to thousands of people throughout Africa.

Another document, *Protecting Human Rights — International Procedures and How to Use Them: the Organization of African Unity and Human Rights*, has been designed for lawyers and human rights workers. It explains the work of the African Commission on Human and Peoples' Rights, which supervises the way governments put the provisions of the Charter into effect.

In June 1991 the OAU Assembly of Heads of State and Government called on the 10 member states which have not yet ratified the Charter to do so and urged other states whose periodic reports are overdue to submit their reports to the Commission. AI members are making similar appeals to governments. □

TURKEY

Attacks on human rights activists

DURING June and July a series of attacks was aimed at members of the independent Turkish Human Rights Association in southeast Turkey.

At 2am on 18 June a powerful explosion destroyed the car of Mustafa Özer, a member of the Human Rights Association. At midnight on 25 June an explosion demolished the Human Rights Association office in Diyarbakir. On the morning of 2 July a bomb destroyed the car of Siddik Tan, a board member of the Batman branch of the Human Rights Association. Siddik Tan, his 10-year-old son and a friend were injured in the blast. It is not known who carried out these attacks.

Vedat Aydin, a member of the Human Rights Association, was taken from his house at around midnight on 5 July by several armed men, ostensibly plainclothes police officers. On the morning of 8 July his dead body was found some 60 kilometres from Diyarbakir with eight bullet wounds, a broken leg and other signs of torture. The body was quickly buried by the police as "unidentifiable" without a full autopsy having been carried out. However, before the family had even identified the body, the Emergency Region Governor reportedly stated that Vedat Aydin had been murdered.

AI has urged the Turkish authorities to initiate thorough, independent and impartial investigations into these incidents and to take all necessary steps to prevent further such attacks. □

SYRIA

Syrian Jews arrested trying to flee country

AT least 23 members of Syria's Jewish community have been arrested since 1987, including women and secondary school students. Most of them were detained without trial, ostensibly after having tried to leave Syria without exit permits, although the authorities have not always specified the charges against them. Several are believed to have been tortured.

Six Syrian Jews — Subhe and Lisa Kastika and their two infant sons, together with Subhe's brother Said and his wife Shafiqua — were arrested on 1 May 1991 in northern Syria and charged with attempting to flee the country. They were held incommunicado for two weeks at a military base and all are alleged to

have been severely beaten. Said Kastika is said to have been severely tortured during interrogation because he has a speech impediment which made it difficult for him to answer questions clearly. The two women and the infants were released in Damascus on 21 May. Subhe and Said Kastika are reportedly being held in 'Adra Civil Prison, near Damascus.

AI has recently received reports of the arrest on 25 September 1990 of Ramoun Ibrahim Darwish and his pregnant wife, Gracia; Joseph Raoul Sabato; Baddur Lalo; Zaki Shaul Sabato and Mair Daoud Pinhas. They were reportedly arrested while trying to leave the country. The two women were

released in January 1991 and the four men are reportedly being held in Aleppo Central Prison.

Only two of those detained have been brought to trial. Brothers Eli and Selim Swed, who had been held in untried detention for over three years, were sentenced on 21 May 1991 to six-and-a-half year prison terms, reportedly on charges of treason or espionage. The final hearing of their trial was reportedly held *in camera* on 5 March and lasted only a few minutes; neither the defendants nor their lawyer were allowed to speak. AI has received no response from the Syrian authorities to its request for details of the trial proceedings and of any right of appeal to a higher tribunal. □

ETHIOPIA

Freed prisoners come to UK

IN July a family of former prisoners of conscience from Ethiopia arrived in the United Kingdom, where they are receiving medical treatment at the Medical Foundation for the Treatment of Torture Victims.

Mulugetta Mosissa and his wife Namat Issa were arrested in 1980 and imprisoned without charge or trial. Their son Amonsissa was born in custody and spent his first nine years in prison; he and his mother were released in September 1989. Mulugetta Mosissa was freed on 28 May 1991 after the fall of the Mengistu government. After his release he told AI: "Many people think we had done a big crime, but we did nothing at all. We were simply talking of democracy, equality, freedom of people, freedom of those who were oppressed."

For nearly 12 years, Mulugetta Mosissa was held in Ethiopia's notorious torture centre in Addis Ababa, *Maikelawi*, where prisoners were repeatedly tortured. "We were tortured until our flesh and bone parted," he said. "I know many people who were disposed of after they died there. Thank you to this organization and all humanitarian organizations who were pressurizing the government to let us free."

Namat Issa told AI: "I had a difficult labour and when my son was born he was already losing consciousness and had difficulty breathing. After 11 days they took me back to prison where I stayed for nearly 10 years... Now we are here for medical treatment and we hope to get a job and live like any other human beings, having human rights in the future." □

CHINA

Widespread illegal and arbitrary detention

HUNDREDS of thousands of people are detained each year in China under forms of administrative detention which can be imposed by the sole authority of the police or local officials. Although administrative detainees are not charged with any crime and are not afforded any opportunity for trial in a court of law, they can be held for periods of up to four years. The official regulations, decisions and instructions providing for such detention are vague, often unpublished and frequently ignored, resulting in widespread illegal and arbitrary detention.

The number of people currently held under the various forms of administrative detention is believed to be in the millions. Some of the detainees are political or religious dissidents, but the overwhelming majority are simply people of low social status — vagrants, the unemployed and migrants — and those regarded as "social deviants". The torture of detainees and grossly inadequate conditions of detention are reportedly common.

Until 1989 such abuses were reported and openly criticized in the Chinese official press, which

denounced the frequent ill-treatment of detainees and the illegal use of administrative detention by the police. Very few such criticisms have been publicly voiced since the June 1989 crackdown on pro-democracy protesters.

In a report released in September AI examined administrative detention through a detailed analysis of Chinese legal texts and commentaries, case histories of prisoners of conscience and the testimonies of former detainees.*

*China: *Punishment without crime: administrative detention* (AI Index No. ASA 17/27/91). □

IRAN

POCs sentenced in unfair trials

NINE prisoners of conscience, including former ministers in the provisional government of the Islamic Republic, were reportedly sentenced to up to three years' imprisonment after unfair trials in May and June. They had been arrested in June 1990 after signing a critical open letter to President Rafsanjani, which called for the implementation of constitutional rights and freedoms.

Some of the prisoners are elderly and in poor health. All are believed to have undergone physical or psychological torture in attempts to make them "confess" on television.

Their trials were summary and conducted in secret, and the defendants were not allowed to have lawyers. Although they had already been held for one year, their prison terms only began the day their sentences were passed.

AI has called repeatedly on the Iranian authorities to release the

nine men and sought to send a delegate to observe the trials, but the Iranian Government did not reply to the organization's request. □

EGYPT

Conflicting reports on missing student

MOSTAFA Muhammad 'Abd al-Hamid 'Othman, a 23-year-old medical student from Qina in Upper Egypt, "disappeared" after his arrest in Zagazig on 17 December 1989. He had been caught up in a wave of mass arrests of suspected supporters and sympathizers of Islamic groups in Egypt following an assassination attempt on the then Minister of the Interior, General Zaki Badr.

Although Mostafa Othman was not known to be a member of any political group, he and a number of other students were arrested and initially taken to Istiqbal Tora Prison, where they were detained under State of Emergency legislation.

Other detainees later confirmed that Mostafa Othman had been held with them at the State Security Intelligence Centre in Lazoghly, Cairo in January 1990, and said that he was complaining of stomach pains. Since his arrest, Mostafa Othman's family have had no contact with him and all attempts to locate him have been in vain.

Inquiries about Mostafa Othman's whereabouts have met with contradictory responses. The Ministry of the Interior claimed that he had been released on 28 December 1989, while the Prisons Administration Department said that he was still being detained in Istiqbal Tora Prison in 1990. □

PERU

'Disappearance' toll mounts

FIFTEEN people, including five women and seven children, have "disappeared" and may have been extrajudicially executed. Their bodies were reportedly dumped in an abandoned mine, which was subsequently dynamited. The 15, all from Santa Bárbara, Huancavelica, had been detained on 4 July 1991 by soldiers from the Huancavelica and Lircay military bases acting in conjunction with a civil defence patrol.

A six-year-old boy was among the "disappeared". On 11 July his grandfather discovered the boy's body and a number of other half-buried bodies in an abandoned mine. On 14 July a delegation from Santa Bárbara attempted to enter the mine but were stopped by a group of armed men in civilian dress who reportedly identified themselves as military personnel from the San Genaro barracks. Members of the delegation heard a series of explosions coming from the direction of the mine.

Although the provincial prosecutor and an examining magistrate in Huancavelica had been informed on 12 July that bodies had been discovered in the mine, they did not investigate these reports until 18 July, four days after the explosions occurred.

The examining magistrate and the provincial prosecutor entered the mine in the presence of members of the police and armed forces. Although the explosions had damaged the bodies beyond recognition, the examining magistrate discovered human remains, items of clothing and used explosives in the mine. No results of any analysis have been reported and the whereabouts of the "disappeared" remain unclarified. □

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