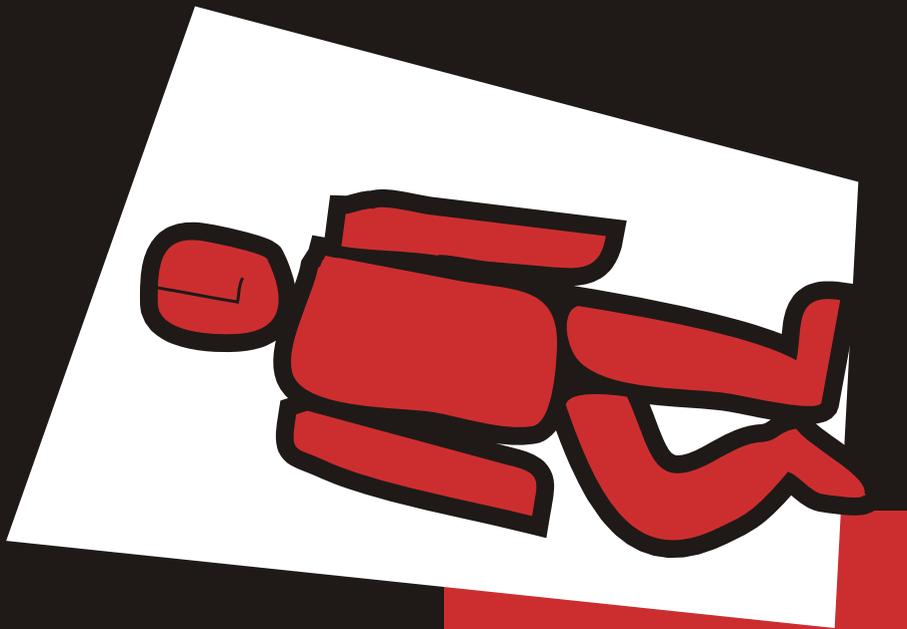


Extrajudicial, Summary or Arbitrary

EXECUTIONS

An Approximation of the Situation in Brazil



Flávia Piovesan

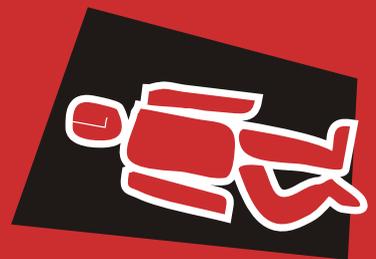
James Louis Cavallaro

Jayme Benvenuto Lima Jr. (Editor)

José Fernando da Silva

Luciano Oliveira

Valdênia Brito



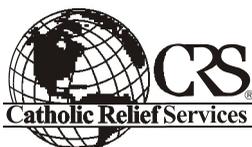
Justiça
Global

Centro de Justiça Global

SUPPORT



Assembléia Legislativa
do Estado de Pernambuco



Coordenadoria
Ecumênica
de Serviços



ff

THE FORD FOUNDATION
Escritório do Brasil

fidh

Fédération Internationale
des ligues
des droits de L'Homme
Federação Internacional dos
Direitos Humanos

Franciscans
International/Dominicans
for Justice and Peace

GAJOP

Gabinete de Assessoria Jurídica
às Organizações Populares

Movimento Nacional de
Direitos Humanos



Movimento Nacional de
Direitos Humanos
Regional Nordeste



Plataforma Interamericana
de Direitos Humanos,
Democracia e Desenvolvimento
- Seção Brasileira

*In memory of all the victims of
extrajudicial, summary or arbitrary
executions in these 500 years of
Brazilian history.*

TABLE OF CONTENTS

PART ONE

| | |
|--|----|
| 1. Introduction..... | 9 |
| 2. Executive Summary | 12 |
| 3. A Brief History of Extrajudicial, Summary or Arbitrary Executions in Brazil..... | 16 |
| 4. Homicides in Brazil | 25 |
| 4.1 Homicides in Brazil: From the Official Data to the Visibility of the Print Media | 26 |
| 4.2 Homicides in Brazil: What the Sources and the Numbers Show .. | 27 |
| 4.3. From Media-Reported Killings Attributed to Police and Death Squads: An Approximation of Extrajudicial, Summary or Arbitrary Executions Using Available Data | 30 |
| 5. Considerations on Public Security and Violence in Brazil | 41 |
| 6. Legal Aspects of Extrajudicial, Summary or Arbitrary Executions in Brazil..... | 48 |
| 6.1 Human Rights Protection in Brazilian Law..... | 48 |
| 6.2 Legal Aspects of Extrajudicial, Summary or Arbitrary Executions | 52 |
| 6.3 The Right to Not be Subject to Extrajudicial, Summary or Arbitrary Executions: Obstacles and Challenges to its Implementation | 53 |
| 6.4 The Response of the Brazilian State | 57 |

PART TWO

1. Cases of Extrajudicial, Summary or Arbitrary Executions in Brazil....61

2. Recommendations.....89

APPENDICES

The Homicides Data Base of the National Human Rights Movement
(Movimento Nacional de Direitos Humanos, MNDH)101

Bibiliography106

Organizations Responsible for this Publication.....108

Part One

I

Introduction

INTRODUCTION

The present publication is the result of the joint efforts of the National Human Rights Movement (Movimento Nacional de Direitos Humanos, MNDH), the Northeast Regional Office of the National Human Rights Movement (Movimento Nacional de Direitos Humanos Regional Nordeste, MNDH-NE), The Office for Legal Assistance to Grassroots Organizations (Gabinete de Assessoria Jurídica às Organizações Populares, GAJOP), the Global Justice Center (Centro de Justiça Global), the Inter-American Platform for Human Rights, Democracy and Development, Brazilian Chapter (Plataforma Interamericana de Direitos Humanos, Democracia e Desenvolvimento - Seção Brasileira), *Franciscans International/Dominicans for Justice and Peace*, in conjunction with and supported by *Catholic Relief Services* (CRS), the Ford Foundation and the Ecumenical Services Coordinator (Coordenadoria Ecumênica de Serviços, CESE).

The institutions involved in this project seek to call the attention of Brazilian society and the international community to the grave problem of Extrajudicial, Summary or Arbitrary Executions in Brazil. These executions occur in a number of conflicts: in the course of violent disputes of land, at the hands of "grupos de extermínio," literally extermination groups but translated throughout this report as death squads, in instances of police violence, or ethnic, gender and cultural hatred. The historic problems that Brazil has faced in human rights terms appear to have no solution: the state and federal government authorities that have followed the 1964-1985 military dictatorship have uniformly lacked the necessary resolve to establish mechanisms to limit, much less eliminate, these severe abuses.

Despite pessimism of the better part of governmental bodies, it is possible to create a culture in the heart of a violent Brazilian society that celebrates and reveres human rights as historical conquests of humanity. This culture recognizes that human rights must be embraced by all, within the context of universality and indivisibility which has structured the development of ethical guidelines for human conduct.

Our belief in this culture has led us to denounce the problem of executions in Brazil and abroad through the simultaneous release of this book in five Brazilian cities (Recife, São Paulo, Rio de Janeiro, Brasília and Belém) and in Geneva, during the 57th Session of the United Nations Commission on Human Rights in April 2001. While bringing this issue to the attention of the international community, the present text seeks to come to grips with, *historify*, and recover elements of the daily brutality to which the Brazilian people see themselves subjected.

By calling the attention of the United Nations to the grave situation of Extrajudicial, Summary or Arbitrary Executions in Brazil, the associated institutions hope to prompt a concrete response (direct monitoring) from its various rights protection mechanisms. It is simply not sufficient that Brazil ratify international instruments for the protection of human rights. The country must establish clear and effective measures to ensure that these rights are respected in practice.

In particular, with regard to the special mechanisms established by the Commission on Human Rights, the participating institutions hope to stimulate the Brazilian government to invite the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to visit Brazil. By means of its Resolution 1982/29 (affirmed by Resolution 1982/35 of the Economic and Social Council of May 7, 1982), the Commission on Human Rights created the position of Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions with a mandate "to examine the questions related to summary or arbitrary executions" and in so doing, to "seek and receive information from Governments as well as specialized agencies, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council" in order to fulfill the obligations created by the International Covenant on Civil and Political Rights (ICCPR). In particular, the obligation assumed by states parties to ensure the right of all

persons to life, and to the protection of this right by law to ensure that no one may be arbitrarily deprived of this most fundamental of all human rights.

Resolution 2000/31 of April 2000 adds to the original mandate the presentation of conclusions and recommendations to the United Nations Commission on Human Rights, in addition to calling on the Special Rapporteur to pay special attention to cases of violations of the rights of children and human rights defenders.

In this context, the associated institutions have organized a publication that includes a conceptual framework, as well as social, legal and historical analyses of the phenomenon in conjunction with analysis of recent data on the issue. The text summarizes a series of concrete cases of executions¹ and concludes with a series of concrete proposals to remedy the grave situation described in the following pages.

It is the sincere desire of the associated institutions that this publication assist the federal and state governments in Brazil to take effective measures to guarantee the full implementation of international instruments and domestic legislation to protect human rights, and in particular, the right to life.

1. The individual cases summarized in this text are notorious in Brazil. To avoid placing the lives of witnesses and surviving victims at risk, the names of the victims and witnesses in the cases included at the end of the report have been withheld. This information, however, will be made available to the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.

Executive Summary

2

Homicide has reached epidemic levels in Brazil. The national homicide rate is among the highest in the Americas and in the world. Among the thousands of killings registered every year in Brazil, extrajudicial, summary or arbitrary executions merit special concern. These are incidents in which authorities, or private agents acting with the explicit or implicit support of authorities, kill civilians without legitimate justification, such as self defense or the defense of another. Unfortunately in Brazil, authorities fail to maintain statistics on the incidence of this abusive practice. That failure is evidence of the unfortunate lack of priority that the government affords to this vital matter.

This publication seeks to arrive at an approximation both of the overall figures and the nature of the practice of extrajudicial, summary or arbitrary executions. We know, for example, that official Ministry of Justice data placed the number of homicides in the first semester of 1999 at 23.3 thousand, which would lead to a total of 46.6 thousand for the full year, at a constant per-semester rate. Of this total, the National Human Rights Movement (MNDH) Database recorded and classified cases reported in Brazilian print media sources in eighteen of the nation's twenty-seven states (including the federal district) totalling 13,917 cases in 1999, the year of our study. Within this universe, in 1,148 cases, or 8.25% of the total, the media sources cited police officers or death squads as responsible for the killings. Applying this percentage to the total of 46.6 thousand for 1999, we arrive at the approximate figure of 3,840 killings by police and death squads that year.

At the same time, data from some states provides a clearer vision of the nature of these homicides. While true that there may exist an occasional death squad without any ties to the police, studies done in

recent years demonstrate that these groups almost always include one or more former or current police officer and, even when they do not, frequently rely on the informal support of the police. Similarly, not all cases of homicide committed by the police may fairly be characterized as extrajudicial, summary or arbitrary executions. Yet, there can be little doubt that a very high percentage of these killings must be so classified. In this regard, São Paulo provides an interesting case study.

A study by the Police Ombudsman (Ouvidoria da Polícia) for the State of São Paulo reviewed the autopsy reports and accompanying information for 222 persons killed by police during 1999 (one third of the total number of victims of homicide by police during the year of our study). The Ombudsman concluded that 52.6% of the victims had been shot from behind; 23% had been shot five or more times and nearly 36% of the victims had been shot in the head. These results suggest that manyone may conclude the majorityhad been executed and not killed during legitimate gun battles using appropriate force, as authorities routinely allege. To estimate the proportion of executions nationally, let us use 50% as a rough estimate of the percentage of police killings that should be classified as extrajudicial, summary or arbitrary executions.

In sum, in the first six months of 1999, the São Paulo police killed 489 civilians, or one person every nine hours. If we use 50% as the percentage of killings by police that should be classified as executions, in the State of São Paulo alone, the total would reach approximately 500 victims for the police alone. If we apply this percentage to the projected total number of killings by police and death squads, the total number of executions for 1999 would be 1,920.

The report not only includes figures that allow for estimations of the gravity of the problem in global terms, but also analyzes available data to profile how, when, why, by whom and against whom these homicides are committed. This analysis focuses specifically on homicides with characteristics of extrajudicial, summary or arbitrary executions. In media-reported cases of homicides committed by police and death squads, for example, one sees that 81.79 percent were attributed to the police compared with16.90 percent for death squads. Focusing on the victims one sees that while women comprise 10.34 percent of homicide victims

overall, in cases with indicia of executions, this figure falls to just 2.35 percent leading to the conclusion that women are four times less likely to be killed in an execution than in some other context. Men are clearly the overwhelming victims of police and death squad killings.

In racial terms, the study shows that Afro-Brazilians, classified in Brazil as black (*negros*) or brown-skinned (*morenos* or *pardos*) comprise 71.28% of the victims of homicides whose race is identified in news sources (7.77%), well over their representation in the overall public. When one considers homicides committed by police or death squads, this percentage increases to 84.96 (14.29% of the total number of victims). The percentage of persons identified by race as white falls from 28.7% (3.13% of the total) in homicides in general to just 15.04% of the total of persons killed by police and death squads.

By means of other analyses of existing figures and essays, this report seeks to explain the phenomenon of extrajudicial, summary or arbitrary executions in Brazil to an international audience, as well as to Brazilian society. To do so, in the chapters that follow, we present a brief historical overview of the practice in Brazil, as well as sociological and legal examinations, including an evaluation of the domestic and international norms binding on Brazilian police and investigative authorities.

To further clarify the nature of the practice of extrajudicial, summary or arbitrary executions, the institutions that have drafted this report have gathered exemplary cases of police and death squad killings in six Brazilian states. We include in this text summaries of forty-one (41) cases believed to be instances of executions which resulted in the death of at least, seventy (70) and possibly ninety (90) victims. The vast majority of these cases are from 1999, the year of our statistical analysis. These are cases that claimed the lives of adolescents, men and women, criminal suspects and persons with no criminal records, professionals and prisoners. The cases involve various types of *modus operandi* including the work of death squads with police involvement, the illegal use of deadly force by on-duty police, killings by police while off-duty, frequently while serving as private security guards, the targeted elimination of potential witnesses of other crimes, extortion attempts followed by murder, kidnappings followed by murder and "massacres" known by the Portuguese term

chacina executions of three or more victims in a single incident with suspected police involvement. The cases demonstrate the horror of extrajudicial, summary or arbitrary executions in human rather than statistical terms.

Finally, in the last chapter, the report presents a series of concrete recommendations to address the problems faced by Brazil in this area. Among these, we highlight here the need to take concrete measures to diagnose the situation through the compilation of reliable national statistics on homicides and, in particular, homicides committed by police and death squads. A second recommendation that merits attention here is one calling on the Brazilian government to invite the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions to visit Brazil to diagnose the situation jointly with civil society and authorities, and, based on her vast experience in the area, present suggestions for change to the government.

A Brief Overview of Extrajudicial, Summary or Arbitrary Executions In Brazil

3

Extrajudicial, summary or arbitrary executions are not a new phenomenon in Brazil. Since the era in which Portuguese settlers first occupied *terra Brasilis*, five centuries ago, the history of Brazil has been marked by such killings. By extrajudicial, summary or arbitrary executions we refer to homicides committed by security forces (police, military personnel, penitentiary guards, municipal guards, etc.) or others acting with the color of authority (death squads, for example) in which the victim is not given the opportunity to exercise the right to defense in a legitimate legal proceeding, or, in the context of a legal proceeding, one which suffers from severe shortcomings that undermine its legitimacy.

Beginning with the native population in Brazil 500 years ago, it has been estimated that the violence and diseases inflicted by Portuguese *conquistadors*, settlers and their offspring have cost the lives of at least one million indigenous people over the course of the past five centuries.² Africans, brought to Brazil by slave traders, suffered similar devastation in the name of political, cultural and economic domination.

In the seventeenth century, various *quilombos* (communities of resistance formed on the outskirts of Portuguese/Brazilian settlements by escaped slaves) flourished in Brazil. The most famous of these, Palmares, located in what is now Pernambuco state, was destroyed in a bloodbath. Its leader, Zumbi, managed to escape the destruction but the Portuguese caught and murdered him two years later; Zumbi's head was placed in a public square as evidence of his death and a means of intimidating the

2. From an original population of between 1,000,000 and 10,000,000 inhabitants, there remain in Brazil today approximately 345,000 indigenous persons, distributed among 215 tribal groups, constituting 0.2% of the nation's population. Source: National Indian Foundation website, www.funai.gov.br/indios/conteudo.htm.

Afro-Brazilian slave population.³ The massacre of Palmares, and the killing of Zumbi are examples of the violence inflicted on slaves in Brazil, which, along with Cuba, were the last American countries to abolish slavery in 1888.⁴

Those who fought for the independence of Brazil from Portugal (among them Tiradentes, Frei Caneca and many others), were also victims of atrocities including torture and extrajudicial, summary or arbitrary executions. At the end of the nineteenth century, the Brazilian government ordered the military to destroy the entire community of Canudos, one of the most densely populated cities in the State of Bahia at the time.⁵ Antonio Vicente Mendes Maciel, better known as Antonio Conselheiro (or Antonio the Counselor), led the Canudos community, which sought to be entirely self-sufficient from the government. Troops destroyed Canudos with extreme violence: as one historian writes "everything was burned, destroyed decapitated without any distinction among guerrillas, the aged, women and children."⁶

Above all, Afro-Brazilians, indigenous peoples, rural laborers and the poor in general have been the victims of homicidal massacres in Brazil. The analysis of Paulo Sérgio Pinheiro, professor at the University of São Paulo and United Nations Special Rapporteur, in the case of torture is

3. "O Quilombo dos Palmares," in *História do Brasil* (São Paulo: Folha de S. Paulo) 80.

4. On the extremely violent punishments inflicted on African slaves in Brazil, "The first escape attempt would be punished by branding with a hot iron the letter "F" [for "fuga" or escape] on the slave's face or shoulder. The second attempt would be punished by cutting off one of the slave's ears. The third attempt would be punished by whipping the slave until dead. Other "serious offenses," in addition to attempted escape, would be punished by castration, the breaking of teeth with a hammer, the amputation of breasts, the gouging out of eyes. There were cases of slaves being burned alive or tossed into grinding machines, in addition to those covered in honey and then thrown into ant colonies. *Ibid.*, 76.

5. Roland Corbisier, *Raízes da Violência: Civilização Brasileira*, 1991, 72.

6. Regarding the massacre at Canudos: "In his travels [Antonio Conselheiro] recruited an increasing number of followers, principally among the poor and less fortunate. Carrying a small prayer book with the image of Christ, Conselheiro entered into cities and towns singing and praying with his followers. He believed that only religion, only preaching would permit him to mobilize the rural poor against large landowners and the exploitation of rural laborers . . . He did not limit himself, however, to sermons. In the cities and towns that he entered, he would organize masses to construct buildings of public use, such as schools, hospitals, chapels . . . All goods were of common use, as was land, grazing areas, crops and animals. Property was limited to personal belongings, one's home and furniture. *Ibid.*, 65-76.

equally valid in the case of extrajudicial, summary or arbitrary executions. Writing in 1984, Pinheiro noted that "the working and under classes in Brazil contrast with the middle class and the bourgeoisie who have only been exposed to torture during the dictatorship of the Estado Novo (1930) and the current authoritarian military regime [1964-1985] have lived with the problem since the formation of the Brazilian state."⁷

The tie between extrajudicial, summary or arbitrary executions and torture is one that has always been present in Brazilian society in the case of common criminal suspects. Author Percival de Souza illustrates the use of torture and executions by Brazilian security forces, against common criminals, ". . . with visible signs of torture, principally on the face (some torturers preferred punching and kicking), [victims] were rolled in carpets and taken out of the building as if they were furniture during a move. Cast aside in any part of the city, the cadavers added to the list of persons "disappeared." Thus was born, with common criminals, the practice of forced disappearance."⁸

"Years later," continues Percival de Souza, "through the use of these and other methods, political prisoners would disappear."⁹ This practice, in conjunction with extrajudicial, summary or arbitrary executions became elements of the defense of national security, as the doctrine by the same name "created in the country a climate of hate and violence, of complete insecurity given that anyone, at any time in any place and for any reason, or no reason at all, could be arrested, handcuffed and made to disappear forever, like so many others."¹⁰

7. Pinheiro, Paulo Sérgio. *Escritos Indignados*. (São Paulo: Editora Brasiliense), 1984, p.109.

8. Souza, Percival, *Autópsia do Medo: Vida e Morte do Delegado Sérgio Buranhos Fleury*. (São Paulo: Editora Globo, 2000), 30.

9. *Ibid.*, 30.

10. Corbisier, *op.cit.*, 16.

Torture and Execution

Percival de Souza illustrates in the text below the repressive and clandestine nature of the mechanisms developed by the military regime to torture and kill prisoners, since its seizure of power in 1964:

- *Red light calling IC [Intensive Care] U [Unit] . . .*
- *On-call doctor here.*
- *Urgent surgery. Prepare the instruments.*
- *Operating Room ready.*
- *Call the hospital director*
- *Operating room ready.*
- *Red Cross I calling*
- *ICU in state of alert*
- *Ambulance en route to hospital. Patients confirmed.*
- *Gurneys ready at the hospital entrance.*
- *Red light calling ICU. Priority. Call the doctors and nurses.*
- *Red Cross 2 calling ICU. Prepare the scalpel.*
- *Hospital director calling. Measures taken. We're waiting . . .*

The unmistakable vehicles were equipped with a special frequency radio, but even so, the hospital language code was employed for those defending national security. The ICU (alluded to in the communications above) referred to the nerve center of the DOI-Codi [an infamous interrogation and torture center] and "red light" meant that someone important was about to arrive. This case was indeed urgent. Thus, the person answering the radio call was the "on-call doctor" the officer on duty in the military unit. "Urgent surgery" signified that widely sought enemies had been captured, thus rendering necessary the preparation of instruments for an interrogation team which would be ready to extract information at all cost and at any price to advance investigations. Thus, the "operating room" would have to be ready to receive the prisoners immediately. From there, what would happen would have no limits, scruples, ethics or pity."

Source: Souza, Percival, Autópsia do Medo: Vida e Morte do Delegado Sérgio Paranhos Fleury, (São Paulo: Editora Globo, 2000), 7-8.

With the gradual transition from military dictatorship to civilian rule, culminating in 1985, executions of common criminals and suspects once again became the rule. In this context, killings by police have been reinforced by the action of death squads, which may be defined as criminal organizations with police participation (in conjunction with private security guards, drug traffickers and criminal elements more generally) that commit extrajudicial, summary or arbitrary executions. These squads target common criminals and suspects and respond, to a certain degree, to a demand heightened during the military dictatorship.

Because these groups do not receive direct financial support from the state, they charge local shop owners insecure in the face of spiraling crime rates for their "security" services. Over time, these groups have expanded into other areas: "there are groups that specialize in drug trafficking, others in kidnapping, robbery, car theft, and others" according to Cleurinaldo Lima, former chief of the homicide department of the Civil Police in Pernambuco state.¹²

The most regrettable element and what forces us to consider the action of death squads as a type of extrajudicial, summary or arbitrary execution is the participation of state agents in the formation (and activities) of these criminal groups.¹³ "Governors appointed during the military dictatorship and state employees were associated . . . from the very beginning with the creation of *grupos de extermínio* or execution gangs known as death squads.¹⁴ Those who follow these death squads, "justiceiros," literally, in Portuguese, "those who make justice" and impliedly, those who take justice into their own hands, "are comprised primarily of retired police officers or off-duty police or persons tied to the police, who together with community leaders and, within these communities, apply what they consider to be justice. . . . And they do so

12. Gabinete de Assessoria Jurídica às Organizações Populares (GAJOP). *O Extermínio em Pernambuco*, (Recife: GAJOP, 1995), 3.

13. ". . . those who furnish the weapons for these groups (rifles, machine guns, among others) and strategies for these groups are police. For years, many killers have said they were being protected by various police officers and station chiefs. They assert having completed many "death services" brokered by police which is why they do not know the names of those ordering the killings. They do know, however, that those killed were persons involved in disputed over inheritances, failing businesses and drug trafficking." *Ibid.*, 5.

14. Pinheiro, *op. cit.*, 52.

with impunity, because they can rely on the support of the police themselves, who allow them to take care of what we may call the dirty work."¹⁵

Extrajudicial, summary or arbitrary executions today, reinforced by the brutal experience of the military regime, are the product of a "war on crime" view of public security that is all too present among state authorities and among a significant portion of Brazilian society. The principal justification for this policy of extermination is the "war on crime" . . . The internal enemy now are criminal suspects and delinquents 'infiltrators' in the masses of the less affluent, the 'povão' (common people) as the military police commands say. In this war, constitutional guarantees for the criminal are guarantees to which the military police can not cede: legal principles and guarantees are an uncomfortable limitation to their action."¹⁶

What is clear is that the process of (re)democratization of the country initiated in 1985 did not include the creation of the democratic mechanisms necessary to control crime, when committed by common criminals or agents of the state. What is lacking, in fact, is a coherent justice and security policy, or, as the more current language would emphasize, an intelligent citizen security policy, able to control criminality and respect human rights.

For their part, homicides in rural conflicts constitute a type of criminal act that has been able to rely on the acquiescence, and, in many instances the direct participation of the police. It is taken as common knowledge in Brazil that the police serve the interests of the elites, in particular, rural elite owners of large and frequently unproductive estates.¹⁷ Lacking access to land on which to produce and live, an increasing contingent of the rural poor have organized and have occupied unproductive lands to pressure the government to fulfill its promise to

15. Bicudo, Hélio. *Do Esquadrão da Morte aos Justicheiros*, (São Paulo: Edições Paulinas, 1989), 14-15.

16. Pinheiro, *op. cit.*, 45, 52.

17. "The system of concentrated land ownership, inherited from colonial times, has a domino effect on social questions. Just 1.88 of rural estates account for more than 54% of all Brazilian land, while 15 million small farmers work on economically impractical lands of less than ten hectares each. Americas Watch, Núcleo de Estudos da Violência--USP/Comissão Teotônio Vilela, *Relatório Americas Watch - Violência Rural no Brasil* (São Paulo: NEV/Américas Watch, 1991), 7-8.

carry out land reform.

This practice of land occupations encounters severe resistance on the part of landowners, as well as the judicial and public security system (police, judges, prosecutors, state secretaries, etc.). While targeted killings and other criminal practices that victimize the rural poor may be attributed in most cases to gunmen hired by large landowners, "the police, with or without judicial eviction orders, have used excessive force on a number of occasions, firing into crowds of workers and their families, beating them or burning their houses to force them to abandon [disputed] areas."¹⁸

These violent police practices are part of a pattern in which violent crimes against the rural poor are not investigated. From January 1964 until December 1989, the Pastoral Land Commission (Comissão Pastoral da Terra, CPT) registered a total of 1,566 homicides of rural laborers, Indians, attorneys, religious workers and others involved in land conflicts. "Of the 1,566 homicides in these twenty-six years, there were just seventeen trials and only eight convictions (and nine acquittals)."¹⁹ More recent data from the CPT "reveal that from 1988 though 2000, 1,570 rural workers were killed²⁰;" the vast majority of these crimes were not adequately investigated nor were the killers held accountable.

Another violent sector of Brazilian society is the penitentiary system. The most glaring instance of police killing of detainees is the October 1992 massacre of 111 prisoners by shock troops in the Carandiru prison complex in São Paulo.²¹ The Carandiru massacre is an extreme example of the routine official violence in a prison system that is chronically overcrowded and in which torture and other physical abuses, the lack of basic health care or social or legal services is the norm.

Numerous other recent cases of extrajudicial, summary or arbitrary executions have shocked the conscience of Brazil and the

18. *Ibid.*, 9.

19. *Ibid.*, 36.

20. Global Justice Center; Pastoral Land Commission, Landless Workers Movement, "Agrarian Reform and Rural Violence" in Global Justice Center, *Human Rights in Brazil, 2000* (Rio de Janeiro: Global Justice Center, 2001) 24.

21. At the time of the publication of this text, those responsible for the massacre in the Carandiru prison complex had not yet been brought to trial.

international community, both at the time of their commission and afterwards, due to excessive delays in criminal proceedings and general failure to hold the killers accountable. Among these instances the following stand out: the cold-blooded murder of eight sleeping street children by off-duty police in the Candelária plaza in downtown Rio de Janeiro in July, 1993; the killing of twenty-one residents of the Candelária favela (shantytown) by Rio de Janeiro police in August 1993; the police massacre of nineteen rural laborers in Eldorado dos Carajás, in the northern state of Pará in April 1996.

In particular after the (re)democratization of the country, parallel to the rise of social movements and non-governmental organizations that promote human rights, there has been an increase in the incidence of extrajudicial, summary or arbitrary executions involving human rights defenders. The case of Margarida Maria Alvesa union leader in Paraíba murdered seventeen years ago, has caused outrage among rights activists, particularly in the northeast. Despite the fact that the identity of her killers is public knowledge, to date no one has been held accountable for her murder.

In the current context of extrajudicial, summary or arbitrary executions, one particular group of victims warrants special consideration: homosexuals. Indeed, while it is widely known that a significant number of homosexuals, lesbians and transvestites are murdered every year by death squads or by police, reliable data are difficult to gather, largely due to continued prejudice against these victims. The Gay Group of Bahia (Grupo Gay da Bahia), one of the most active groups in defense of gay rights in Brazil writes, "as the twentieth century ends, regrettably, the situation of homicides of homosexuals in our country is frightening and extremely worrisome: 1999 is the year in which the greatest number ever of gays, transvestites and lesbians - 169 - were killed in Brazil."²² Among these victims, the category which most stands out are sexual workers.²³ While not all homicides of homosexuals may be characterized as

22. Luiz Mott, *Violação dos Direitos Humanos e assassinato de Homossexuais no Brasil* (Salvador: Grupo Gay da Bahia, 2000) 83.

23. *Ibid.*, 93.

24. *The practice of lynchings in Brazil, while not ordinarily characterized as extrajudicial, summary or arbitrary executions, warrant special attention, particularly in those states in which they occur most frequently (Rio de Janeiro and Bahia). In the words of Prof. Paulo Sérgio Pinheiro, "The practice of lynching is but a signal of desperation in response to the inefficacy of the police and judicial system*

extrajudicial, summary or arbitrary executions (in that not all these crimes are committed by state agents or with the acquiescence of state authorities), the high degree of police and death squad participation and the impunity that ordinarily accompany these cases provide reason for concern.²⁴

Numerous reports written by domestic and international human rights organizations emphasize that extrajudicial, summary or arbitrary executions are one of the most serious human rights problems faced by Brazil. Each year, hundreds of Brazilians are executed or ordered killed by large landowners, exterminated by death squads, victimized in private conflicts with the complicity of the state, or murdered by police. The primary reason for the continued commission of these crimes is the lack of a coherent state policy designed to prosecute and punish in an exemplary fashion those who extrajudicially, summarily or arbitrarily execute. At the same time, intensive efforts by the Brazilian state to develop values of democratic citizenship are also lacking, thus facilitating the acceptance of shockingly high rates of homicide and executions by the public in general.

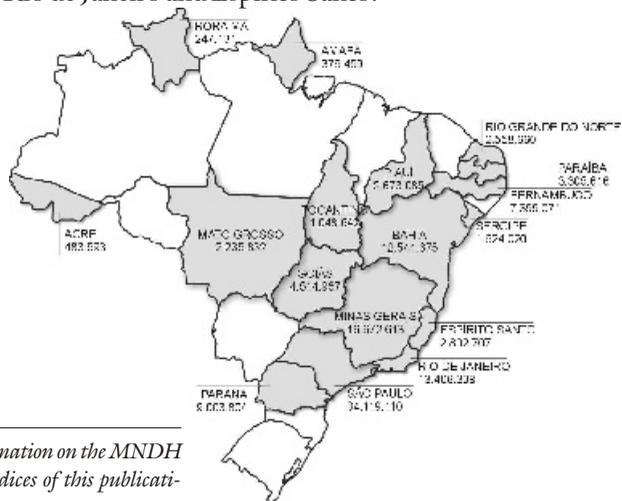
in cases involving the less affluent classes. The temptation to take justice into one's own hands is an indicator of the lack of legitimacy of the police. For the masses, lynching is a reaction that corresponds to the practice of death squads, of police killings of criminals in "legitimate defense," to the torture chambers in all police districts and the terrorism of illegal police searches and arrests.
Pinheiro, op. cit., 75.

4

Homicides in Brazil

The data analyzed in this publication were researched by institutions tied to the National Human Rights Movement (Movimento Nacional de Direitos Humanos, MNDH) which maintains a database of homicides reported in newspapers in all twenty-seven political subdivisions (twenty-six states and the Federal District of Brasília) of the Brazilian federation. The criteria for the selection of newspapers are the following: daily circulation, state-wide distribution, and focus on coverage of homicides.²⁵

Initially, we set out the official figures to establish the gravity of the problem of violence in Brazil. The tables that follow place the total number of homicides reported in selected newspapers during 1999 in eighteen units of the Brazilian Federation: Goiás, Minas Gerais, Rio Grande do Norte, Pernambuco, Bahia, Paraíba, Acre, Sergipe, Tocantins, Paraná, São Paulo, Mato Grosso, the Federal District of Brasília, Piauí, Amapá, Roraima, Rio de Janeiro and Espírito Santo.



25. For additional information on the MNDH database, see the Appendices of this publication.

Next, we analyze a subset of these reported homicides: those attributed to death squads and police.

4.1. Homicides in Brazil: From the Official Data to the Visibility of the Print Media

Before presenting the analysis of the data, a few considerations on the production and quality of official data on violent crime in Brazil are in order. First, one must recognize the lack of reliable statistics in this area.²⁶ Second, we note that the most complete available source on homicides in Brazil that allow for analysis of external causes is the National Database of the System of Information on Mortality of the Ministry of Justice (Base de Dados Nacional do Sistema de Informações de Mortalidade do Ministério da Justiça, DATASUS/SIM). Given the nature of this system, only information concerning the victims is registered and stored. Even so, according to Walseflsz, "SIM itself estimates that the data presented in 1992 may represent something on the order of 80% of deaths that occurred in the country that year."²⁷

In addition to the issues raised in the studies cited above, the data gathered by official sources on criminality in Brazil, in general, do not facilitate the determination of the profile of offenders, even for serious crimes like homicide. The characterization in police incident reports is also insufficient, further undermining the chances of analyzing the motivation and circumstances of violent crimes.

Given these limitations, it is not possible to perform a rigorous analysis of instances of extrajudicial, summary or arbitrary executions in Brazil based on statistics from official sources alone.

26. "citing Campos (1978), to affirm that the underestimation of criminal activity, reflecting different trends in the various social strata concerning crime reporting. Those of the highest social strata, for example, tend not to report rapes; the vulnerability of police organizations to possible external pressures. These pressures on certain types of criminal activity may redefine, for limited periods of time, the emphasis of police work. One begins to detect certain crimes with greater frequency than others, resulting in interference with official statistics; those within the criminal justice system police, judges, prosecutors engage in their work based on organizational definitions of crime, and who are possible criminals, etc. J.R. Rotton and José Luiz, *Violência e crime no Brasil contemporâneo: homicídios e políticas de segurança pública nas décadas de 80 e 90* (Brasília: Cidade Gráfica e Editora, 1996), 20.

27. Julio Jacobo Walseflsz, *Mapa da violência II: Os jovens do Brasil* (Brasília: UNESCO, 2000), 25.

On the other hand, one may use data from print media sources to establish the profile of victims, as well as that of suspects or accused parties, in addition to the characterization of the homicides themselves. Thus, the data presented and analyzed in section 4.3 seek to approximate the situation of extrajudicial, summary or arbitrary executions based on data reported in print media on homicides in eighteen of the twenty-seven units of the Brazilian federation. In particular, we consider cases of homicides attributed to police and to death squads as a rough measure of extrajudicial, summary or arbitrary executions.

4.2. Homicides in Brazil: What the Sources and the Numbers Show

Violence in Brazil has reached alarming levels, provoking grave concern at home and abroad. According to researcher Ib Teixeira of the Getúlio Vargas Foundation (Fundação Getúlio Vargas, FGV), a leading academic center, "Brazil can boast the shameful average of 38,000 homicides per year over the last ten years, as compared to 35,000 per year in Colombia, a country mired in civil war. São Paulo, Rio de Janeiro, Brasília and Rio Branco (Acre) are the most violent cities. In Brazil, violent crime has become routine, and more people are killed than in the wars of Chechnya, Kosovo and Bosnia."²⁸

Data from the Ministry of Justice reveal that in the first semester of 1999, 23.3 thousand homicides were registered in Brazil. In two decades, the homicide rate in the country has risen 173.3%, rocketing from 9.44 per 100,000 in 1979 to 25.84 per 100,000 in 1998.²⁹ According to FGV researcher Teixeira, violence costs Brazil 8% of its Gross National Product per year.³⁰ Many businesses have questioned whether investment in Brazil is economically viable, given the high costs of violence and security services.

For many sectors of society, the dominant sensation in the area of public security is of pervasive lawlessness combined with the absence of prospects for change. According to Prof. Paulo Sérgio Pinheiro, "even the democratic state has been unable to put an end to the 'zones of terror.'³¹

28. Text from the URL: www.pernambuco.com/antiores/2000/08/20/urbana.html, March 20, 2001

29. Text from the URL: www.pernambuco.com/antiores/2000/08/20/urbana.html, July 9, 2000.

30. The Gross National Product (GNP) for Brazil in 1999 was 558 billion US dollars. Eight percent of that total represents US \$44.7 billion.

At the same time, the public interest in protecting itself against crime has been channeled into paying for private security services (watchmen, bullet-proof vehicles, electronic surveillance units, etc.), or into vigilante justice, including lynchings and the resolution of private disputes without recourse to the state.

Turning to our evaluation of media-reported homicides, we note that the data analyzed here represent a significant portion of the homicides committed in 1999 in Brazil, in that they include all killings reported in the selected newspapers in eighteen of the twenty-seven units of Brazil. The totals are set forth in Table 01 and indicate that the media sources cited report approximately thirty-nine homicides every day, or roughly 1,160 per month.

Table 01:
Media-Reported Homicides, 1999

| Victims by Unit of the Brazilian Federation | Frequency | % |
|--|------------------|----------------|
| São Paulo | 4,070 | 29.24% |
| Rio de Janeiro | 1,986 | 14.27% |
| Pernambuco | 1,757 | 12.62% |
| Espírito Santo | 1,464 | 10.52% |
| Bahia | 1,306 | 9.38% |
| Paraná | 547 | 3.93% |
| Goiás | 535 | 3.84% |
| Paraíba | 456 | 3.28% |
| Mato Grosso | 402 | 2.89% |
| Sergipe | 240 | 1.72% |
| Minas Gerais | 208 | 1.49% |
| Piauí | 205 | 1.47% |
| Distrito Federal | 200 | 1.44% |
| Tocantins | 161 | 1.16% |
| Roraima | 103 | 0.74% |
| Rio Grande do Norte | 102 | 0.73% |
| Amapá | 95 | 0.68% |
| Acre | 80 | 0.57% |
| TOTAL | 13,917 | 100.00% |

Fonte: MNDH Database

31. *Superior Tribunal de Justiça, A proteção internacional dos direitos humanos e o Brasil, (Brasília: Superior Tribunal de Justiça, 2000), 106.*

The 13,917 media-reported homicides in Brazil presented in the MNDH Database in 1999 are not exclusively killings by police and death squads. They include instances of multiple murders, targeted assassinations, killings in street crime and those committed by ordinary citizens, as well as many other types of homicides.³²

The vast majority of victims, in 1999, were male. Of the 13,917 persons killed in these media-reported incidents, 12,428, or 89.3% were male, while 1,439 (10.39%) were female. In fifty cases (0.36%) the sources failed to inform the gender. Explanations for the overwhelming participation of men in homicides necessarily involve analysis of sexist cultural aspects deeply embedded in Brazilian society.

As far as the race of the victims, or in Brazilian terms, the color, in 89.10% of the reported cases, no information was provided. In the remaining cases, the total of non-white victims termed either "negro" (black), moreno or pardo (literally, brown-skinned) totals 1,082 (7.77%) while white victims number 435, or 3.13%. One must be careful in analyzing these data, however, given the lack of clear guidelines in establishing racial identity in Brazil, as well as the biases inherent in society regarding racial classification.³³

In terms of the distribution of homicides by day of the week, one sees that media-reported incidents are concentrated on weekends, with the highest figure, 2,748 or 19.75% of the cases, reported for Sunday, followed by Saturday with 2,031 cases or 14.59%. The fewest number of me-

32. It is important to explain some of the modalities referred to in the MNDH database: *Chacina*, or slaughter/massacre, refers to the killing of three or more persons, ordinarily with extreme violence and at night or in the pre-dawn hours to eliminate persons allegedly involved in criminality; *Justicheiro*, literally, "justice maker" a term used in the center-west region of Brazil may be distinguished from death squad. *Justicheiros* are persons paid by small businessmen to "clean" given areas. Ordinarily, *justicheiros* have no tie to the state, although it is suspected that police authorities often condone these killings and are less than vigorous in their investigation. *Pistolagem*, or hired-gun crimes, are contracted killings, extremely common in Northeastern Brazil. These contracted killings often target enemies of a particular political faction; *Criminalidade de rua*, or street crimes, are crimes associated with robberies, fights between or among gangs, and the action of common criminals. *Crimes atribuídos aos cidadãos comuns*, crimes attributed to ordinary citizens, are those committed by the population in general and which may not be classified in the other categories.

33. In the words of scholar Marilena Chauí, "prejudice is the greatest obstacle to knowledge and transformation. Prejudice is ignorant and therefore conservative." *Senso comum e transparência: O preconceito*. (São Paulo: Imprensa Oficial do Estado, 1996), 118.

dia-reported cases is registered on Friday 1,730 or 12.43%. It is worth noting that from Friday to Sunday, 46.77% of media-reported homicides are committed.

Table 02:
Distribution of Media-Reported Homicides by Day of Week

| Victims by Day of Week | Frequência | % |
|------------------------|---------------|----------------|
| Sunday | 2,748 | 19.75% |
| Sturday | 2,031 | 14.59% |
| Monday | 2,000 | 14.37% |
| Wednesday | 1,833 | 13.17% |
| Tuesday | 1,804 | 12.96% |
| Thursday | 1,771 | 12.73% |
| Friday | 1,730 | 12.43% |
| TOTAL | 13,917 | 100.00% |

Fonte: MNDH Database

The concentration of crimes on weekends occurs principally at night (4,896 cases, or 35.18%) and during the pre-dawn hours (3,481 cases or 25.01%). Taken together, media-reported homicides occurring during the night and pre-dawn hours claimed the lives of 8,377 persons or 60.19% of victims, compared with 3,283 persons killed during the day (morning/afternoon). For 2,257 victims (16.22%), the sources did not report the time of the incident.

The increased incidence on weekends may be explained by the fact that people tend to travel outside their ordinary trajectories (home-work-home) and venture into areas with which they are less familiar. As another study of criminal violence concludes, "[t]he days on which the vast majority of people do not work and are thus less exposed to the various mechanisms of social control and regulation present in the work environment, are the days on which the greatest number of homicides occur."³⁴

**4.3. From Media-Reported Killings
Attributed to Police and Death
Squads: An Approximation of
Extrajudicial, Summary or**

34. Ratton and Amorim, *op. Cit.*, 66.

Arbitrary Executions Using Available Data

Of the 13,917 media-reported homicides in Brazil presented in the MNDH Database, 1,148 killings, or 8.25%, involved police or death squads. Stated differently, more than three media-reported homicides per day are attributed by the print media to police and death squads, representing a monthly total of 100 crimes in the eighteen units of the Brazilian federation included in the Database in 1999.

The five states with the greatest number of homicides are, in order: São Paulo, Rio de Janeiro, Pernambuco, Espírito Santo and Bahia, as demonstrated above. However, when we consider homicides committed by police and death squads, Rio de Janeiro occupies the first position, followed by Bahia.

Table 01:
Media-Reported Homicides Attributed to Police and Death squads,
by Unit of the Brazilian Federation, in 1999

| Victims by Units of Brazilian Federation | Frequency | % |
|---|------------------|----------------|
| Rio de Janeiro | 259 | 22.56% |
| Bahia | 250 | 21.78% |
| São Paulo | 223 | 19.43% |
| Pernambuco | 152 | 13.24% |
| Espírito Santo | 87 | 7.58% |
| Paraná | 34 | 2.96% |
| Paráiba | 25 | 2.18% |
| Piauí | 23 | 2.00% |
| Goiás | 18 | 1.57% |
| Distrito Federal | 15 | 1.31% |
| Minas Gerais | 15 | 1.31% |
| Sergipe | 12 | 1.05% |
| Rio Grande do Norte | 9 | 0.78% |
| Tocantins | 9 | 0.78% |
| Acre | 6 | 0.52% |
| Mato Grosso | 4 | 0.35% |
| Roraima | 4 | 0.35% |
| Amapá | 3 | 0.26% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

Of these media-reported cases attributed to police and death squads, in more than four-fifths, or 81.79%, police were cited as the killers, while death squads were reported as responsible for 16.90%.³⁵

These alarmingly high figures suggest tacit approval by Brazilian authorities of killings by police and death squads, approval of an unofficial death penalty applied with great frequency in Brazil.

Table 02:
**Distribution by Action of Groups (Media-Reported Homicides
Attributed to Police and Death Squads, 1999)**

| Victims by Action of Groups | Frequency | % |
|-----------------------------|--------------|----------------|
| Military and Civil Police | 939 | 81.79% |
| Death Squads | 194 | 16.90% |
| Penitentiary Agents | 11 | 0.96% |
| Armed Forces | 4 | 0.35% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

Within this universe of media-reported homicides committed by police and death squads, 48.34% were attributed to on-duty military police, as the table below demonstrates. If we add to this figure the number of media-reported homicides attributed to on-duty civil police, the figure reaches 667, or 58.09% of the total.

It is important to note that the military police employ many more officers than the Civil Police and that the former, due to the nature of their patrol duties, are far more likely to encounter situations of armed violence. It is worth noting, however, that while the number of persons killed by on-duty civil police is high, off-duty military police kill with greater frequency, as shown below. Still, the fact that Civil Police, charged with investigative duties, were responsible for 8% of the total of media-reported homicides attributed to police and death squads, provides reason for concern.

35. *The principal role of the Civil or Judiciary Police, is to investigate crimes. Military police, by contrast, are uniformed law enforcement agents charged with patrolling and preventing crime.*

Table 03:
Distribution by Group Believed Responsible in (Media-Reported Homicides Attributed to Police and Death Squads, 1999)

| Victims by Group Believed Responsible | Frequency | % |
|--|------------------|----------------|
| Military Police, On-duty | 555 | 48.34% |
| Death Squads | 194 | 16.90% |
| Military Police, Off-duty | 112 | 9.76% |
| Civil Police, On-duty | 91 | 7.92% |
| Police (No Additional Information Provided) | 42 | 3.66% |
| Military Police (No Information as to On/off duty) | 37 | 3.22% |
| Police Officer, On-duty (Police Force Not Specified) | 28 | 2.44% |
| Police Officer, Off-duty (Police Force Not Specified) | 23 | 2.00% |
| Joint Action (Civil and Military Police), On-duty | 21 | 1.83% |
| Civil Police, Off-duty | 20 | 1.74% |
| Others ³⁶ | 25 | 2.17% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

36. Joined in the category "Others" are the following: Homicides resulting from the action of penitentiary agents; those committed by Civil Police, without specifying whether the officer was on- or off-duty; those committed by Civil and Military Police without specifying whether on- or off-duty; those committed by Civil and Military Police off-duty; committed by an Army private; committed by a member of the Air Force; committed by a Military Police officer off-duty jointly with an Army private.

POLICE VIOLENCE

In the State of São Paulo, the number of civilians killed by police rose from 525 in 1998 to 664 in 1999, the highest level since 1992, when police in Brazil's most populous state killed 111 prisoners in the Carandiru prison complex. In the past ten years, military police in the State of São Paulo have killed 6,672 people. This trend intensified in the first half of 2000: the police in São Paulo killed 489 civilians, an increase of 77.2% over the 1999 figure for the same period. In the first half of 2000, the police killed one person every nine hours, or nearly three people per day. This growth is accompanied by an increase in the number of prisoners and surpasses the increase of 8% of general homicides committed in the state. São Paulo police kill an average of 1,000 people per year while New York police kill roughly twenty people annually. Thus, police in São Paulo kill approximately fifty times more often than their counterparts in New York, or twelve times more per capita. For every policeman killed in São Paulo, police kill twenty-four civilians. In New York, this ratio is 7.7.

A study released in July by the Office of the Police Ombudsman sheds light on these figures. Analyzing the autopsy reports available in the case of 222 people killed by police in 1999 (just over one third of the total number of fatal victims), the study demonstrated that 52.6% had been shot in the back 23% had been shot five or more times and 36% had been shot in the head. These results suggest that many of the victims were summarily executed and not killed in legitimate confrontations, as authorities routinely indicate. Roughly 60% of those killed had no prior criminal record. Among these homicides, 55.8% of those killed were not in the act of committing a crime, even according to police records. The study also demonstrates that in 43.5% of the 193 cases examined, there were no witnesses to the police action, and that 45.9% of the victims were between eighteen and twenty-five years of age at the time of their death; another 11% were minors. (Source: Global Justice Center, citing figures from the São Paulo Office of the Police Ombudsman).

In terms of the gender of the victims, as with media-reported homicides in general, males greatly outnumber females, constituting 97.39% of the total, as compared with just 2.35%. However, when compared with totals for media-reported homicides, one finds that while women constitute 10.34% of the victims in all cases, they comprise just 2.35% in homicides attributed by the media to police and death squads, suggesting that women are four time less likely to fall victim of an extrajudicial, summary or arbitrary execution than they are to be killed in other circumstances.

Table 04:
Distribution of Victims of Media-Reported Homicides
Attributed to Police and Death Squads, by Sex, 1999

| Victims by sex | Frequency | % |
|----------------|--------------|----------------|
| Male | 1,118 | 97.39% |
| Female | 27 | 2.35% |
| No information | 3 | 0.26% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

The data on the race (color, in Brazilian terms) of the victims of media-reported homicides attributed to police and death squads allow for some interesting conclusions. First, one is struck by the extremely high percentage 83.18% for which information on race/color is not reported. While high, this figure is significantly lower than the figure for all media-reported homicides (89.10%).

Second, while the percentage of persons considered "non-white" for all cases of media-reported homicides is 7.77%, in cases of killings attributed to police and death squads, this figure nearly doubles, reaching 14.29% of the total. By contrast, persons identified as white comprise 3.13% of the victims of all media-reported homicides and just 2.53% in the case of police and death squad killings. These data suggest that while non-whites constitute the majority of victims of homicides in general, in killings with indicia of extrajudicial, summary or arbitrary execution, darker-skinned Brazilians are even more likely to be targeted and killed.

Table 05:
Distribution of Victims of Media-Reported Homicides
Attributed to Police and Death Squads by Race/Color, 1999

| Victim, by race/color | Frequency | % |
|------------------------------|------------------|----------------|
| No Information | 955 | 83.19% |
| Black | 118 | 10.28% |
| Moreno | 35 | 3.05% |
| White | 29 | 2.53% |
| Brown | 11 | 0.96% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

Concerning the age of victims, nearly two thirds (66.06%) are thirty-five or younger. Among this group, of particular concern are children and adolescents (those under age eighteen) who make up 7.14% of the victims.

Tabela 06:
Distribution of Victims of Media-Reported Homicides
Attributed to Police and Death Squads by Age, 1999

| Victims by age | Frequency | % |
|-----------------------|------------------|----------------|
| 22-35 | 431 | 37.54% |
| No information | 325 | 28.31% |
| 18-21 | 211 | 18.38% |
| 36-49 | 81 | 7.06% |
| 0-17 | 88 | 7.14% |
| 50 and above | 18 | 1.57% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

With regard to the days on which media-reported homicides attributed to police and death squads occur, we find a relatively even distribution of the cases for all days of the week. Wednesday (16.99%) is the day on which most such incidents were reported, while the fewest cases were reported on Saturday (12.37%).

Marcos Eduardo da Silva, Alcenor Gomes da Silva, Rinaldo Inocêncio, Josenildo dos Santos, Célio Vicente de Miranda.

On the night of May 13, 1999, twelve heavily armed, hooded men invaded the city jail in Alhandra, in Paraíba state. The men forced the jailer to open cells number one and two and fired a number of shot at the detainees being held there.

The gunfire killed five men and wounded eight others. Apparently, the motive of the massacre was revenge: three men suspected of killing a police officer from the Mata Redonda station were being held in the Alhandra jail.

The police inquiry attributes the incident to the omission of police and the jailer on duty given the fact that none of these took any measures to prevent the violent entry into the jail by the hooded, armed men, nor did any of them open fire against the group.

Source: Office of Representative Luiz Couto

Table 07:
Distribution of Victims by Day of Week, (Media-Reported Homicides Attributed to Police and Death Squads, 1999)

| Victims by Day of Week | Frequency | % |
|-------------------------------|------------------|----------------|
| Wednesday | 195 | 16.99% |
| Friday | 170 | 14.81% |
| Monday | 169 | 14.72% |
| Sunday | 163 | 14.20% |
| Thursday | 159 | 13.85% |
| Tuesday | 150 | 13.07% |
| Saturday | 142 | 12.37% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

Analyzing media-reported homicides attributed to police and death squads, one sees that the majority of these killings occurred at night, involving 57.93% of the 1,148 victims.

Tabela 08:
Distribution by Time of Incident (Media-Reported Homicides Attributed to Police and Death Squads, 1999)

| Victim by Time of Incident | Frequency | % |
|----------------------------|--------------|----------------|
| Night | 382 | 33.28% |
| Pre-Dawn | 283 | 24.65% |
| Afternoon | 169 | 14.72% |
| No Information | 161 | 14.02% |
| Morning | 153 | 13.33% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

The percentage of media-reported homicides attributed to police and death squads in which firearms were the lone means employed is extremely high 98.35%. By contrast, for media-reported homicides in general, firearms are used in 80% of all cases. The virtually universal use of firearms by police and death squads suggests that many of these killings may be extrajudicial, summary or arbitrary executions.

Tabela 09:
Distribution of Media-Reported Homicides Attributed to Police and Death Squads by Weapon employed, 1999

| Victim by Weapon Employed | Frequency | % |
|------------------------------------|--------------|----------------|
| Firearm | 1,129 | 98.35% |
| No Information | 7 | 0.61% |
| Knife/Other Sharp Object & Firearm | 4 | 0.35% |
| Blunt Instrument | 5 | 0.44% |
| Knife/Other Sharp Object | 2 | 0.17% |
| Firearm / Asphyxiation Device | 1 | 0.09% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

With regard to the locale of media-reported homicides attributed to police and death squads, one is immediately struck by the high percentage^{49.13} that occur on public roads. In only 5.79% of these cases was information about the locale of the crime unavailable. The fact that nearly half of these crimes occur on public streets suggests that death squads and police are not concerned with the possible consequences should the killing be witnessed, which in turn, suggests a high degree of belief that their crimes will not be investigated or punished.

Fábio Oliveira dos Santos, Mechanic

On July 5, 1998, Fábio Oliveira dos Santos rode his motorcycle along one of the principal avenues of Recife, Pernambuco when he encountered a blitz operation performed by a transit police patrol.

Seeking to comply with a police request that he reverse his direction (apparently, dos Santos was headed in the wrong direction) the youth turned the motorcycle. At that point, military police officer Daniel Gomes do Nascimento fired at dos Santos, killing him. The young motorcyclist offered no resistance or danger to the police, nor was he armed.

The police officer suspected in this case has not denied that he killed dos Santos and is being prosecuted for aggravated murder. The public prosecutor has indicted do Nascimento and the judge has forwarded the case to a jury for trial.

Source: CENDHEC - Dom Hélder Câmara Center of Study and Action

**Tabela 10:
Distribution of Victims by Locale (Media-Reported
Homicides Attributed to Police and Death Squads)**

| Victims by Local | Frequency | % |
|---|------------------|----------------|
| Public Road/Street | 564 | 49.13% |
| Urban Área | 137 | 11.93% |
| Residence | 101 | 8.80% |
| Deserted Área | 71 | 6.19% |
| Commercial, Financial, Service Establishment | 60 | 5.23% |
| Leisure Área | 52 | 4.53% |
| Rural Área | 43 | 3.75% |
| No Information | 63 | 5.49% |
| Detention Centers | 32 | 2.62% |
| Other Public Space | 25 | 2.17% |
| Workplace | 2 | 0.17% |
| TOTAL | 1,148 | 100.00% |

Source: MNDH Database

Finally, it is worth noting that while for media-reported homicides, the majority of perpetrators (53.34%) are not identified, in instances attributed to police and death squads, the opposite is true: the party accused or suspected to be the killer is identified in nearly two-thirds (62.27%) of the cases. This fact, in itself, should provide an important lead in criminal investigations into media-reported killings with prima facie indicia of being extrajudicial, summary or arbitrary executions.

5

Considerations on Public Security and Violence in Brazil

When one analyzes recent trends in violence in Brazil, the shift in focus of human rights groups warrants attention. With the end of the military dictatorship and the elimination of political prisoners, the attention of these groups turns to common criminals, whose most fundamental rights have been historically disrespected in Brazil.

Criminals, or mere suspects, once identified as such by a profoundly unjust and discriminatory society, these common prisoners shared and still share a similarly downtrodden socio-economic status. The class element, undeniably present in the repressive actions of our police forces, has shaped the thinking of many observers, leading their analyses to emphasize the social and historical development of Brazilian society, characterized by the brutal physical repression to which the underclasses (first, slaves, then residents of favelas and poor outlying urban regions) have always been subjected.

In this context, Prof. Nancy Cardia³⁷ speaks of the "moral exclusion" to which these victims are relegated. It is this exclusion, according to Cardia, that allows repressive forces to commit atrocities against these common criminals without provoking the moral outrage of public opinion which characterized the response to the abuses of the military dictatorship committed against victims of higher social classes. In this same vein, Teresa Caldeira³⁸ considers the most profound meaning of the attack on human rights in Brazilian society to reside in the "maintenance of the privileges of an exclusive social order."

37. Nancy Cardia, "Direitos Humanos e Cidadania", in: *NEV (Núcleo de Estudos da Violência), Os Direitos Humanos no Brasil*, (São Paulo: USP, 1995).

38. Teresa Caldeira, "Direitos Humanos ou 'Privilégios de Bandidos'?", in: *Novos Estudos CEBRAP*, (São Paulo: July 1991) n. 30.

The discourse that characterizes human rights activists as "defenders of criminals" is so laden in bad faith that, as such, it would merit nothing more than contempt were it not for the particularly worrisome fact that it enjoys wide popular acceptance. Why? In line with the position defended in this text, this support enjoys a concrete base: the rise of violent crime, a painful reality from which those most affected on a daily basis seek to extricate themselves by legal means if possible, and if not, by any means ... As Cardia writes, analyzing the responses of those "caught between fear of the police and fear of delinquents" the more exposed they are to crime, "the more they accept the arbitrary actions of the police and the community (such as the use of torture and fatal violence against 'suspects')." This demonstrates that the greater the degree of desperation of a segment of society, the more receptive it will be to human rights violations."³⁹

Thus, the success of the security-based discourse. Because this discourse is based on an attack of human rights, those who defend these principles often refuse to listen to the message. The refusal to engage in this discourse should not overshadow the fact that the objective which it seeks to promote security must be respected. This is so for both pragmatic and programmatic reasons. Here, it must be recognized that public security is itself a human right. This recognition is based on the fundamental documents of the human rights tradition, be they the inaugural declarations of the French Revolution of the late eighteenth century or the United Nations' Universal Declaration of Human Rights of 1948.

Article 2 of the first Declaration of the Rights of Man and of the Citizen of 1789 proclaims that the "natural and eternal rights of man" are "liberty, property, *security* and resistance to oppression. (emphasis added). One might term the Declaration typically bourgeois. Yet, one should not forget that in 1793, at the moment in which the Revolution begins a shift toward social issues absent in the first Revolution a shift to the left in contemporary language a new Declaration appears establishing, in an identical article 2 practically the rights: "to equality, liberty, *security*, property." (emphasis added)⁴⁰ Later, article 8 provides the following definition: "Security consists of the protection afforded by society to each

39. *Ibid.*

40. *Christine Fauré, Les Déclarations des Droits de l'Homme de 1789, (Paris: Puyot, 1988).*

of its members for the protection of the person, and the person's and property."⁴¹ One hundred and fifty years later, the United Nations' Universal Declaration of Human Rights in which civil and political rights from the classic liberal tradition figure alongside socio-economic rights from the modern socialist perspective repeats in its article 3: "Every individual has the right to life, liberty and *personal security*." (emphasis added).

In other words, for reasons that are understandable, personal security as a human right, when it appears in activist literature, refers to the personal and moral integrity of political prisoners, or even of common prisoners, when violated by state agents. This focus produces a curious omission: the fact that the ordinary citizen also has the right to security and that this right is frequently violated by criminals. Here, it is important, once again, to avoid misunderstanding, to emphasize two points. The first is that this assertion in no way constitutes a defense of the idiotic slogan "what about the human rights of the victim?" used by enemies of human rights to discredit the arduous task of rights defense in a country like Brazil. The second is that by no means does this recognition advocate for the use of the same yardstick to judge human rights violations committed by dictatorial regimes and those committed by criminals.

This leads us to a text by Colombian author Rodrigo Uprimmy,⁴² which emphasizes the need for a specific focus on violations committed by state agents. The reasons for this focus are historical: human rights guarantees were conceived as a means of checking the power of the state: legal states are the actors who assume obligations through international treaties to respect human rights and practical when a third party commits an act that threatens an individual's rights, she or he always has recourse to state authority to protect the right or remedy the violation. But when the state violates rights, the citizen has no mechanisms of remedies other than human rights. Thus, one agrees with Uprimmy when he writes, "the concept of human rights violation, in order that it not lose its specificity, should be reserved to actions by the state."⁴³

41. *Ibid.*, 374.

42. Uprimmy, Rodrigo. "Violência, Ordem Democrática e Direitos Humanos", in: *Lua Nova*, (São Paulo, CEDEC, 1993), n. 30.

43. *Ibid.*, 103-104

To these reasons, one other justification may be added: to accept that criminals and state agents violate rights on equal terms is, to a certain extent, to equate them! This, though, is not possible, for the simple reason, among others, that society does not demand criminals that respect human rights; society desires simply that there be no criminals. In fact, from a logical perspective, it is senseless to demand that criminals respect human rights given that violating these rights is the essence of criminality. With regard to the State, the demand is just the opposite: that the State exist as the repository of *legitimate* violence that is, violence used to protect the public and to respect human rights. In this sense, State disrespect for human rights is even more deplorable. Of course, the pain may be the same for the victim . . .

But if we agree with Uppimmy, why call attention to violations of the security of persons when committed by criminals within the framework of reflection on human rights? Because the insecurity provoked by criminality creates an atmosphere replete with potential for acceptance of violations committed by the State itself! On this point, it is necessary to turn to a few reflections based on research data that give us food for thought.

Several studies on criminality and forms of punishment have noted that public opinion is not uniform but rather subject to fluctuation often based on particularly revolting crimes. Let us examine, for example, the death penalty. In September 1991, a survey by the leading Datafolha research center found that 46% of Brazilians interviewed supported the death penalty, while 43% opposed, a virtual tie in statistical terms. A year and a half later, in February 1993, the same institute repeated the survey, this time shortly after two high profile crimes shocked Brazilian public opinion: the murder of actress Daniela Perez in Rio de Janeiro and the kidnapping and killing of Miriam Brandão, a girl in Belo Horizonte. The second survey demonstrated a significant shift: 55% of those interviewed expressed support for the death penalty while only 38% opposed the draconian measure.⁴⁴

Another example, closer to our analysis. In October 1999, in the

44. Luis Francisco Carvalho Filho, *O que é Pena de Morte* (São Paulo: Brasiliense, 1995), 68.

midst of a series of escapes and riots by juveniles in detention facilities [known as FEBEM centers in São Paulo], complete with explicit televised images of the violence, a survey of São Paulo residents conducted by the firm Brasmarket and reported in the October 13 issue of *IstoÉ* magazine, showed that 91.4% supported reducing the age of criminal responsibility from eighteen to sixteen, while only 6.8% opposed such a measure! That same study demonstrates an increase in the percentage of persons surveyed supporting the death penalty: 38.6 stated clear support; 28.5% opposed the measure, and 28.5% indicated that "it depends." If we consider that this last position admits, at least in theory, the possibility of the application of the death penalty, the total number of São Paulo residents not opposed to the death penalty reaches 67.1%. Other examples abound.

In sum, figures like these suggest that the more people are exposed to crime, the more they tend to support solutions to the violence that affects them based on force. In this case, efforts to create consciousness among the general population concerning the importance of human rights, efforts that characterize the action of rights activists, appear somewhat limited in their ability to persuade potential allies. This is not to say that educational activities in this area are not important. To the contrary, results from other studies suggest that a person's cultural level is one factor influencing her or his opinion regarding methods of crime control.

Frequently, in these studies, opinions on forms of punishment of criminality are not equally distributed among all strata of society composing public opinion. To the contrary, a certain regularity may be observed: the closer to the most disfavored social strata in terms of education level, the greater the possibility of support for violent solutions to the problem of criminality. In the second Datafolha study cited above, for example, support for the death penalty fell as the level of education of the persons interviewed increased.⁴⁵ More recently, another study of citizen support for extrajudicial police action (action that constitute, therefore, violations of human rights) surveyed 1,043 persons in Rio de Janeiro, asking them, among others, the following question: "In some cases, is police torture of suspects to obtain information justifiable?" Those who

45. *Ibid.*, 68.

responded favorably (either "agree" or "strongly agree"), fortunately, do not comprise the majority, but rather *only* 12.5%. Given the gravity of the human rights violation in question, however (torture), this figure is worrisome. What is worth emphasizing here is that when the responses are analyzed by educational level, one finds that "persons with the lowest educational level are those who support torture."⁴⁶

Correlations of this type may also be detected when responses are analyzed according to the income level of those surveyed (which itself correlates with educational level, to the extent that greater income allows for increased access to education, and vice versa). An example of this is an opinion survey conducted by the same *Folha de S. Paulo* in 1984 on lynching of criminals, a particularly cruel and inhuman means of carrying out "justice." In this survey, São Paulo city residents were asked if they supported the "lynchings of criminals that have been occurring in the city." A total of 48.2% of those interviewed responded affirmatively. Within this level of support, differences based on income level could be detected. Among those who earned twice the minimum wage or less, support reached 59%; of those who earned between two and five times the minimum wage, 49.8% responded favorably; and of those who earned more than five times the minimum wage, support was *just* 32.0%.⁴⁷

Seeking to test these correlations, a study in Recife interviewed two radically different social sectors in terms of income and education level—university professors and taxi drivers—regarding their tolerance for police violence as a means of combating criminality. The two samples were chosen based on a third factor separating the groups: their degree of exposure to criminal violence. According to all available information, taxi drivers were much more exposed to criminal violence. To give an idea, in 1989, in the greater Recife area, twenty-six taxi drivers were killed while in 1999, by mid-year, twenty had been the victims of homicide.⁴⁸ Once the

46. R. Briceño-León, L.P. Carneiro and J.M. Cruz, "O apoio dos cidadãos à ação extrajudicial da polícia no Brasil, em El Salvador e na Venezuela", in: D.C. Pandolfi, et al. (orgs.), *Cidadania, Justiça e Violência*, (Rio de Janeiro: Fundação Getúlio Vargas, 1999).

47. P.R. Menandro and L. Souza, *Linchamentos no Brasil: a Justiça que não tarda mas falha*, (Vitória: Fundação Ceciliano Abel de Almeida, 1991).

48. C.F. Tavares, *Violência Policial Reflexões sobre sua tolerância entre segmentos da sociedade no Recife*, Master's Thesis presented in Political Science, Federal University of Pernambuco (Recife: Federal University of Pernambuco, 1999).

49. *Ibid.*, 65

two groups were selected, twenty members of each were interviewed.

The results are interesting. First, the difference in the degree of exposure to criminality was much less pronounced than expected. While thirteen of the taxi drivers had been robbed, eleven professors had been victim of a similar attack, a virtual tie. However, despite this, the attitudes of both groups regarding acceptance of police violence were not similar. Of the twenty taxi drivers, eleven supported police violence while just one professor of the twenty interviewed shared this opinion.⁴⁹ This result in turn supports the hypothesis that cultural and educational development serves as a strong antidote to epidemic reactions to criminality. In other words, a uncritical adherence to police violence as a good solution to the problem of criminal violence.

All this favors the need to work towards human rights education. Yet the issue of security must be considered crucial. It is true that, according to the data from the study, higher education appears to neutralize the perverse effects of exposure to violence, that is the absence of security. But, on this point, it is important to observe that at least one other factor, that of the time between the robberies suffered by the professors and the survey, may be at work. In other words, it may be that even the professors, who, like their taxi driver counterparts, were victims of violent crimes, do not feel the same proximity to violence as the taxi drivers. Could it be that because their daily existence does not expose them to criminality, they are able to distance themselves from the temptation to succumb to violent solutions?

Legal Aspects of Extrajudicial, Summary or Arbitrary Executions in Brazil

6

6.1 The Protection of Human Rights in the Brazilian Legal System

The process of democratization in Brazil began after a twenty-one-year period of authoritarian military rule from 1964 to 1985. During this dictatorial regime, authorities practiced systematic torture, arbitrary arrests, forced disappearances, ideologically-based political persecution, and censorship. The executive power repressed basic rights and liberties and rejected fundamental principles, such as the separation of powers and the authority of state and local governments in a federal system. Acting as an autonomous institution, the Armed Forces took direct control of the government's duties, effectively merging military and national power.

The year 1985 marked the beginning of a gradual transition towards democracy. Although the political liberalization of the military regime brought about this transition, in the face of complex internal problems, it was the opposition forces of civil society that accelerated the military's downfall. As the primary beneficiary of this liberalization, civil society strengthened itself through organization and mobilization, permitting important social and political achievements. New social actors and movements surfaced, making demands and reinforcing basic principles of democracy.

The slow, gradual democratic transition facilitated the return of civil control over military forces and demanded the restoration of a more just socio-political relationship between Citizens and State. This process culminated in a new constitutional order—the Brazilian Constitution of October 5, 1988.

The 1988 Constitution provided the legal framework for democratic transition and for the institutionalization of human rights in Brazil. The text marks the formal rupture with the authoritarian regime installed in 1964 and reflects the "post-dictatorial" democratic consensus. After twenty-one years of authoritarian rule, this Constitution re-established the rule of law, the separation of powers, federal principles, democracy, and fundamental rights based on the value of human dignity (Article I, III).

The text introduces extraordinary constitutional advances in the consolidation of fundamental rights and their guarantee, making it the most detailed and inclusive document on human rights ever adopted in Brazil. However, despite the constitutional advances that reflected civil society's desire for democratization, one cannot fail to recognize that the transition was incapable of ensuring complete democratization and universal citizenship in Brazil. According to scholar Guillermo O'Donnell, the process of democratization may be understood as consisting of two transitions. The first is the transition from the previous authoritarian regime to the installation of a democratic government. The second transition is from this government to democratic consolidation, in other words, to the effective implementation of democratic rule.⁵⁰

In the Brazilian experience, the initial rupture with the military dictatorship set-off the transitional process toward democracy, gradually recovering institutions of representation and of citizenship. Throughout the process, the effective consolidation of democracy has arisen as the greatest challenge to the full exercise of fundamental rights and liberties. The guarantee of free elections does not, in itself, automatically create a more just and equal society.

The first period of the democratization process, the transition from an authoritarian regime to the installation of a democratic one, has been achieved in Brazil. However the second phase of effective consolidation of democratic order, is still in progress. Today, the twenty-

50. Guillermo O'Donnell, "Transitions, Continuities, and Paradoxes", in Scott Mainwaring, Guillermo O'Donnell and J. Samuel Valenzuela, Eds., *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspective* (Notre Dame, University of Notre Dame Press, 1992) 18.

one-year legacy of authoritarianism remains central to contemporary Brazilian culture and continues to generate difficulties for this second phase. The repulsive practice of extrajudicial, summary or arbitrary executions that serves as the focus of this report illustrates the persistence of authoritarian culture in a now politically-democratic society.

From a normative-legal perspective, the post-dictatorial period is marked by a new set of national values extremely concerned with human rights as well as growing national support for international treaties on their protection.

Since the beginning of the democratization process, in particular since the adoption of the 1988 Constitution, Brazil has taken important measures to incorporate international instruments for the protection of human rights. Among the international human rights treaties ratified by Brazil (followed by the date of ratification by Brazil) are:

- a. The Convention on the Elimination of All Forms of Discrimination Against Women, February 1, 1984
- b. The Inter-American Convention to Prevent and Punish Torture, July 20, 1989
- c. The Convention Against Torture and other Cruel, Inhumane, or Degrading Treatment, September 28, 1989
- d. The Convention on the Rights of the Child, September 24, 1990
- e. The International Covenant on Civil and Political Rights, January 24, 1992
- f. The International Covenant on Economic, Social, and Cultural Rights, January 24, 1992
- g. The American Convention on Human Rights, September 25, 1992
- h. The Inter-American Convention to Prevent, Punish and Eradicate Violence Against Women, November 27, 1995
- i. The Protocol to the American Convention on Human Rights to Abolish the Death Penalty, August 13, 1996
- j. The San Salvador Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, August 21, 1996.

In addition to ratifying these treaties, Brazil recognized the jurisdiction of the Inter-American Court on Human Rights in December 1998 and signed the statute of the Permanent International Criminal

Tribunal in 2000.

In addition to the significant advances brought about by the adoption of international norms by the Brazilian state for the protection of human rights, the post-1988 period also presents the most comprehensive recognition of human rights in Brazil's legislative history. A great majority of the standards for human rights protection, understood as the exercise of civil, political, social, economic, and cultural rights, was created immediately following the 1988 Constitution, as a result of the document's impact and inspiration. The following normative acts may be emphasized as examples of this legislative innovation:

- a. Law 7.716, January 5, 1989 Defines acts of prejudice based on color, race, or creed as criminal. Bail is not available for offenders whose crimes are not subject to the statute of limitations. (Prior to the 1988 Constitution racism was considered a mere violation or infraction)
- b. Law 8.069, July 13, 1999 The *Children's and Adolescent's Statute*, regarded as one of the most advanced pieces of legislation on the issue. The Statute establishes full protection of children and adolescents, detailing both their fundamental rights and strategic policies to assure their implementation.
- c. Law 9.140, December 4, 1995 Recognizes persons forcibly disappeared for their involvement or alleged involvement in political activities between September 2, 1961 and August 15, 1979 as deceased, holds the State responsible for these deaths, and authorizes compensation to the victims' families.
- d. Decree No. 1904, May 13, 1996 Implements the National Human Rights Program elevating human rights to the status of governmental policy and proposes public policies to protect and promote civil and political rights in Brazil.
- e. Law 9.229, August 7, 1996 Transfers the judgment of intentional homicides (the rough equivalent of murder in common law systems) committed by military police from military courts to civilian courts.
- f. Law 9.437 February 20, 1997 Creates the National System of Weapons (SINARM), establishes standards for registering weapons, and criminalizes the possession of illegal weapons.
- g. Law 9.455, April 7, 1997 Defines and punishes crimes of torture. Denies bail to offenders for whom clemency and political pardon are not available. Persons who commit torture, those who issue orders to torture and those who fail to prevent acts of torture may all be tried for

the crime of torture in accordance with Article 5, XLIII of the 1988 Constitution.

- h. Law 9.459, May 13, 1997 Amends Law 7.716/89 (that defines crimes of prejudice based on color, race, or creed) to include crimes resulting from ethnic, religious, or national prejudice.
- i. Law 9.807, July 13, 1999 Establishes standards for the organization and maintenance of special programs to protect victims and witnesses in danger. Creates the Federal Protection Program for Witnesses and Victims of Violence.

6.2 Legal Aspects of Extrajudicial, Summary or Arbitrary Executions in Brazil

In light of the legal aspects already discussed, it is clear that fundamental human rights guarantees clearly prohibit the practice of extrajudicial, summary or arbitrary executions. Such executions may be defined as any and all homicides committed by State security or (police officers, military personnel, municipal guards, prison guards, death squads) or similar forces (death squads, and *justiceiros* or "justice makers" with official involvement, support or acquiescence) where the victim is denied the right to a legal defense, is executed before being sentenced, or after a trial in which fundamental guarantees are violated.⁵²

The international treaties on human rights ratified by the Brazilian State ensure the right to life, the right to physical and moral integrity, and the right to judicial protection at both the national and international level.

On a global level, declarations and conventions reinforce the prohibition of extrajudicial, summary or arbitrary executions. Article III of the Universal Declaration on Human Rights (1948) establishes that all persons have the right to life, liberty, and personal security. Similarly, the International Covenant on Civil and Political Rights, ratified by Brazil in 1992, ensures the protection of the right to life, adding that no one may be arbitrarily deprived of his or her life (Article 6). The Covenant establishes the rights to liberty and personal security, affirming that no one may be

52. Note that the death penalty is prohibited in Brazil, except in cases of declared war. See Article 5, XLVII, (a) of the Brazilian Constitution of 1988.

deprived of liberty without due process (Articles 9 and 14). At the regional level, provisions of the American Convention on Human Rights emphasize the right to life (Article 4), the right to personal integrity (Article 5), the right to personal liberty (Article 7), and the right to judicial protection (Articles 8 and 25).

At the national level, the Brazilian Constitution of 1988 emphasizes the inviolability of the rights to life, liberty, and security and establishes the right to physical and moral integrity as well as the right to due process (Article 5, Chapters LIV and LV).

In light of these rights, the Brazilian State is strictly obligated to respect and ensure the full and free exercise of these rights and liberties without discrimination. With these rights comes a corresponding responsibility on the part of the Brazilian State to prevent, eliminate, prosecute and punish all extrajudicial, summary, or arbitrary executions. Such executions constitute a clear violation of fundamental rights and present a serious obstacle for the full and free exercise of these rights.

In short, due to the national and international parameters binding on Brazil, its governmental authorities are obligated to implement policies that prevent and respond effectively (through investigation, trial and punishment of those responsible) in order to guarantee the right not to be subjected to extrajudicial, summary or arbitrary executions.

6.3 The Right Not to Be Subjected to Extrajudicial, Summary or Arbitrary Executions: Obstacles and Challenges for its Implementation

In light of the international and national parameters that impose legal duties on the Brazilian State to protect the right not to be subjected to extrajudicial, summary or arbitrary executions for all people, we next consider the primary obstacles and challenges to the implementation of this right, with special attention to the data showing the gravity of the problem.

The research presented in this report, obtained from the homicide database (culled from information reported in newspapers from eighteen states/political subdivisions of the Brazilian federation), demonstrates the routine, grave violations of the rights to life, physical and moral integrity, judicial protection, and due process. The data establish the responsibility of the Brazilian state for these violations, as well as its failure to comply with the duty to investigate, prosecute, and punish these acts.

According to Article 144 of the Brazilian Constitution of 1988, the State is responsible for public security, which is the right and responsibility of all citizens and should be exercised for the preservation of public order and for the safety of the country and its citizens. In order to exercise this function, the Constitution establishes several bodies: the federal police, federal highway police, federal railway police, civil police, military police, and military fire fighters. The civil police and the judiciary are responsible for investigating crimes while the military police are charged with exercising ostensible and preventive policing. In summary form, the military police respond to crimes in progress while the civil police investigate crimes committed after the fact.

A comparison between the constitutional guarantees and actual practice as presented in this report reveals a consistent and shocking pattern of violation of the legal order. State agents are the principal perpetrators of extrajudicial, summary or arbitrary executions in Brazil. In episodes that affront the most basic rights and liberties of the Brazilian people, police agents, rather than guarantee individual rights, are themselves the agents of their abject violation.

The high level of participation by state agents in cases of extrajudicial, summary or arbitrary executions demonstrates the degree of institutional violence as well as the perpetuation of a "destroy-the-enemy" logic similar to that of the dictatorial military regime. As already mentioned in this report, this mentality reflects a vision of public security that exists both within State bodies and among considerable elements of Brazilian society. These sectors of society support confrontations with the "internal enemy" of delinquents and criminal suspects. From this perspective, rights and liberties place inconvenient limitations on the necessarily aggressive war on crime.

The current public security apparatus is a vestige of the military regime, which, for twenty-one years, focused on defending law and order and combating the enemy through persecution of an ideological and political nature. Today it is necessary to definitively break with this authoritarian legacy and incorporate democratic logic and values into public policy in this area. According to the democratic logic of the 1988 Constitution, public security is a responsibility of the State and must be consistent with the fundamental rights of citizens. In order for the police to provide the relevant public services that citizens merit, they must make a clean break from their legacy of repression and eliminate all remaining traces of authoritarianism. Practices such as police efficiency in combat and impunity must be reconciled with absolute respect for human dignity and fundamental rights.

The State is obliged not only to respect fundamental rights, but also to ensure the full and free exercise of these rights. Consequently the State has both positive and negative obligations. On one hand, the State is obligated not to violate rights (*i.e.*, not to kill, torture, deprive one of a fair trial, etc.), and on the other hand, it is duty bound to adopt the measures necessary to ensure guaranteed rights (*i.e.*, to prevent forced disappearances, prohibit the actions of death squads, etc.). Even if state agents are not directly responsible for abusive actions themselves, the State is still responsible for adopting effective measures to protect against such violations.⁵³

As the cases in this report demonstrate, the State routinely fails to comply with its duty to investigate, try and punish those responsible for extrajudicial, summary or arbitrary executions committed directly by state agents or death squads. The culture of impunity perpetuates the practice of these violations through a vicious circle in which killers summarily execute suspects presuming their crimes will go unpunished. When, in fact, their crimes are not investigated or prosecuted successfully, this

53. As author Thomas Buergenthal points out, "The State Parties to the Convention have an obligation not only 'to respect' the rights guaranteed in the Convention, but also 'to ensure' their free and full exercise. (Art.1(1).) They consequently have both positive and negative duties, that is, they have the obligation not to violate the rights which the Convention guarantees and are required to adopt whatever measures may be necessary and reasonable under the circumstances 'to ensure' their full enjoyment," (Thomas Buergenthal, *International Human Rights in a Nutshell*, (St. Paul: West Publishing Company, 1998)).

impunity stimulates the practice of further executions. Law 9.299 (August 7, 1996) transferred the jurisdiction over the investigation and prosecution of intentional homicides committed by military police from military courts to the ordinary courts. Nonetheless, this measure has been insufficient in combating impunity insofar as a common reaction by killer police has been to cover-up, rather than report such crimes. At the same time, for the battle against impunity to be won, the witness and victim protection programs instituted by Law 9.807 (July 13, 1999) must be strengthened. This is a crucial measure for effectively eliminating impunity.

As already emphasized in this report, Brazil lacks a coherent national policy for effectively prosecuting and punishing extrajudicial, summary or arbitrary executions. The fact that 49.13% of reported instances of police and death squad killings occur on public streets merits attention. The audacity with which this large proportion of murders are committed reflects the existing culture of impunity, insofar as the perpetrators are neither fearful of, nor deterred by the potential consequences of their actions.

One of the greatest challenges to protecting the right not to be subjected to extrajudicial, summary or arbitrary executions is the implementation of a security policy that focuses on controlling criminality but which also maintains the proper and necessary respect for human rights.

Police programs designed to limit or eliminate such executions must be coupled with preventive programs and must have democratic and legal bases. In order to combine these control-oriented and preventive perspectives, police must be democratic, integrated with the community, and under civilian control that respects all people, regardless of their race, ethnicity, gender, age, or social class.

If the violence of the military regime targeted victims on a political and ideological basis, during the current period of transition to democratic rule, one may fairly conclude that the violence of state agents and those acting under color or authority has focused on the most vulnerable populations in socio-economic terms.

The discriminatory logic still in place inspires violence, denies inalienable rights, and perpetuates intolerance based on factors such as race, ethnicity, gender, sexual orientation, and socio-economic status. These abuses violate the legal guarantees of equality that emphasize the duty of the Brazilian State to assure the full and free exercise of rights for all people and prohibit the practice of all forms of discrimination.

6.4 The Response of the Brazilian State

The right not to be subjected to extrajudicial, summary, or arbitrary executions demands both preventive and post-facto measures of the Brazilian State.

Taken as a whole, the cases of extrajudicial, summary or arbitrary executions demonstrate the State's incapacity to adopt adequate measures to guarantee this right. On one hand, this presents a violation of national and international fundamental rights, and on the other, manifests disregard for the legal responsibilities the Brazilian State has assumed before the international and national community.

The documented cases of extrajudicial, summary or arbitrary executions demonstrate that the considerable advances in the protection of human rights in Brazil noted above have been confined to the normative-legal arena. Given the failure to move beyond the realm of principles, it follows that State institutions should strive to incorporate such advances into their practices.

Part Two

I

Cases of Extrajudicial, Summary or Arbitrary Executions in Brazil

1.0. PARÁ

PA

1.1. Hider Sirnei dos Santos Coelho, 16 year old student.

On April 3, 1999, in Marabá, Hider Sirnei dos Santos Coelho was accused of stealing the VCR of the friend of police officer Valdenor Miguel de Freitas. Three days later Military Police officers Valdenor Freitas and Jessé Medina da Cruz (a.k.a "Jacunda") seized one of the accused, Hidevaldo, and tortured him. The police threatened to kill Hidevaldo, as well as two other young men, Hider and Johny, who were also accused of the theft.

On April 9, the two police officers went to Hilder's house and order him to go to a house on José Cursino de Abreu street, in Marabá. Hilder went to the house with his girlfriend, Rosilene, and tried to talk to officer Jessé, denying any involvement in the theft. The officers told Rosilene to go home so they could talk alone with the victim. Rosilene left and hid near the house, listening to the conversation. Moments later she heard shouts and saw the officers bring Hilder out of the house, where they kicked, punched and pistol whipped him. After this they shot six rounds at the victim, killing him.

Rosilene hurried to get help. When she returned to the scene she encountered a crowd and officer Valdenor, who probably thought no one had seen the murder. Rosilene shouted out that Valdenor had killed the victim.

A doctor reported that Hider had been shot four times and also suffered wounds to the head.

The prosecution of the murder is still in the initial stage. Officers Valdenor and Jessé were imprisoned on June 13, 1999. On November 9, 1999 the Public Ministry accused them of homicide. Until now the Marabá district judge has not scheduled the case for jury trial. Due to the

delay, the accused were freed in July 2000 to await trial.

Source: Paranese Society for the Defense of Human Rights.

1.2. Dalvi Araujo da Silva, sixteen year old student.

In Abaetetuba, on April, 28 1999, at approximately 6:30p.m., Dalvi Araújo da Silva was riding a motorcycle when he was followed by a vehicle with three police officers. Apparently, the officers thought da Silva had stolen the bag he had with him. The police forced da Silva off the road with their squad car. After the young man fell of his motorcycle, Officer "Dilsinho" shot him in the thigh. Da Silva, kneeling and raising his hands begging the police not to kill him, pleaded that he was not a criminal. The police shot him in the right hand.

The police removed the victim's clothes, beat him, dragged him on the street and shot him in the chin and temple. During these moments of violence, several onlookers asked the police to have mercy. The police responded the no one should interfere unless she or he also wanted to die, and explained that they were only killing a criminal.

One officer was identified as Investigator Dilsinho, but the other two remain unidentified.

Afterwards the victim's family registered a complaint with the Pará State Police Internal Affairs Division. The case was sent to the Office of the Public Prosecutor in Abaetetuba. At present, the investigation is stalled.

Source: Pará Society for the Defense of Human Rights (SDDH)

1.3. Antônio Gleison Silva Gomes, 17; Sérgio Nêris de Oliveira, 19; Francisco Natanael, 14; A.S., 16 and Gilvandro Pinheiro Amorim, 14.

In the city of Paragominas, August 24, 1999, at around 4:00 a.m., Antônio Gleison Silvan Gomes and his friend, Sérgio Nêris de Oliveira were returning from a cattle market when a vehicle began to follow them. Witnesses state that they heard shouts and shots and cars fleeing from the

scene.

The victims presented contusions on their entire bodies. There were abrasions on their heads and faces, indicating they had been beaten with gun or rifle butts. Their wrists bore marks from handcuffs. Antônio's left eye was lacerated. Both died from gunshot wounds.

Police are believed to be responsible. Gomes had been receiving threats from the police for seven months prior to the killing, since he had been imprisoned and tortured with electric shocks after committing a petty theft. In addition, the victims had been accusing Military Police officers Leomar Alves da Silva, Evaldo Chaves Pereira and Rômulo da Silva Neves of drug trafficking, robbery, torture and corruption. The officers know as Elesbão, Fred, Chaves, Messias, Everaldo, Tomé, Baby, Elvis, Lima, Pittbul and Giovani were also named as members of the gang.

After the first two murders, other adolescents who reported abuses by these police were killed. The first was Francisco Natanael, in April 2000. Next A.S. was found dead on May 11, and finally Gilvandro Pinheiro. The police are suspected of having formed an extermination group to kill anyone who accused them or witnessed their crimes.

Only one policeman, Rômulo da Silva Neves, was arrested (for the homicide of Francisco Natanael). No others have been detained, and the adolescents' deaths remain unresolved.

Local rights groups have worked to protect the adolescents who remain alive. Six minors were transferred to Belém, and one has been placed in the Federal Witness Protection Program.

Source: Pará Society for the Defense of Human Rights (SDDH)

1.4. Geovani Raimundo Pereira Barros, 25, Security Guard.

On May 26, 1999 in the city of Icoaraci, two police officers went to Geovani Raimundo Pereira Barros' house, accusing him of being the criminal known as "the scalpel maniac". Barros denied the accusation, but the police insisted that his neighbor had identified him as the scalpel maniac. The victim then ran, and was able to flee the police pursuit.

The police invaded Barros' house and handcuffed his brother, Gilber Pereira Barros, and brought him to the Icoaraci police station. There, Gilber Barros was presented to one of the maniac's victims, known

as Lea, who affirmed that he was not the maniac. She was then shown a photograph of Geovani Barros, who also did not resemble her aggressor.

Simultaneously, at around 1:30 p.m., in the area known as "Invasão Paracuri," in Icoaraci, officer Hilário Hilton Silva Júnior apprehended Geovani Barros. Officer Silva pulled his weapon and aimed at the victim, who begged him not to shoot. Silva shot Barros in the chest, fatally wounding him, then dragged the body about five meters and shot five times with another gun. Silva then placed that second weapon in Barros' hand, making it appear as though Barros had been armed when he was shot.

The victim's brother registered a complaint with the Pará State Police Internal Affairs Department, and the police opened an internal investigation. The case was also sent to the Office of the Public Prosecutor. The internal police investigation concluded that there had been no execution, but rather a gun battle, and that officer Hilário Hilton Silva Júnior had acted in legitimate self defense.

Source: Pará Society for the Defense of Human Rights (SDDH)

1.5. Márcio Alessandro Pontes Martins, 23, Driver.

In Belém, on April 26 1999, at around 2 a.m., Márcio Martins, and a friend known as "Léo" were walking on the Nossa Senhora das Graças Passage. Military Police vehicle 301 approached them. The vehicle's occupants approached, got out and started to hit Léo, who was later freed.

Police handcuffed Martins' hands and legs and beat him. The officers severely beat Martins and kicked him repeatedly. They shot him three times, twice in the chest and once in the back. Later, the police brought Martins to the municipal first aid station where he was pronounced dead on arrival.

The victim's mother filed a complaint with the Pará State Police Internal Affairs Investigator. The case was sent to the Office of the Public Prosecutor. Two inquiries were opened, one by the Civil Police and one for the Military Police. The former is still ~~unconcluded~~, while the Military Police inquiry concluded that there was sufficient evidence of criminal behavior by Sgts. Carlos Eugênio Santana Ferreira and Afonso Dias da Silva, as well as evidence of violation of internal Military Police discipline

by Sgt. Carlos Alberto Souza de Amorim, officers Joaquim Roberto da Silva Alfaia, Antônio Emiliano de Assunção Farias and the two sergeants cited above.

Military Police authorities imposed sanctions of eight days in detention on Sgts. Carlos Eugênio and Silvério Afonso and a sanction of four days in detention on the other three officers. When witnesses identified another Military Police officer, Heitor Vale da Silva, as one of the those involved in the initial killing of Martins, he threatened the life of the victim's widow.

Source: Paranes Society for the Defense of Human Rights (SDDH)

1.6. Alessandro dos Reis Moraes da Silva, 20, unemployed

In Belém, on June 25, 1999, the victim was sleeping with his two brothers when four police officers known as Moreira, Pestana, Júnior and Toninho entered his house with their weapons drawn. The noise woke Alessandro da Silva. Apparently, when da Silva fell out of bed, the police shot several rounds at him.

The officers then dragged da Silva to the car and bring him to the municipal first aid station. The police contended that da Silva was a criminal known as "Lamparinha", who had committed robberies in the Juruna district. According to the police, the victim shot at them first, trying to resist arrest.

The victim's mother registered a complaint with Pará State Police Internal Affairs. At the date of this publication, no inquiry had been opened.

Source: Pará Society for the Defense of Human Rights (SDDH)

1.7. Pedro Dantas, grave digger.

In Belém, on November 1, 1999, Pedro Dantas returned from work with his friend, Jesus Nazareno Cardoso Alho, when police investigator Remilton dos Santos Rodrigues and a man known as "Zé Miséria" approached them in a car. The investigator got out of the car and pulled Dantas's shirt, put a gun to his chest and fired five rounds, killing him.

Rodrigues then kicked the victim's body, to make sure he was dead and only stopped when a crowd gathered around him. Rodrigues and "Zé Miséria" left in the car.

According to witnesses, "Zé Miséria" apparently had contracted Remilton Rodrigues to find two thieves who had robbed the supermarket of Zé Maria's brother that morning. Their belief that Dantas was one of the thieves caused the attack.

Remilton Rodrigues was arrested, but "Zé Miséria" was able to escape. The latter's whereabouts remain unknown.

After a complaint was registered with the Pará State Police Internal Affairs Division, the Paranes Society for the Defense of Human Rights requested information about this case from the Office of the Public Prosecutors, on November 10, 1999. The spokesperson responded that the Prosecutor was going to indict the officer, who was currently in detention.

2.0. PARAÍBA | PB

2.1. Marcos Eduardo da Silva, Alcenor Gomes da Silva, Rinaldo Inocêncio, Josenildo dos Santos, 24, Célio Vicente de Miranda.

On May 13, 1999, at around 9:30 p.m., twelve men, some hooded and heavily armed entered the Alhandra City Penitentiary. They forced the jailer to open cells one and two. On gaining access to the cells, they fired various rounds at the prisoners within.

Five detainees died and eight were injured. It is believed that the attack was motivated by revenge. Three men suspected of involvement in the death of a police officer in the town of Mata Redonda were imprisoned in Alhandra.

The police inquiry blamed the incident on police and prison guard omission. The guards on duty that night had all failed to retrieve their weapons, suggesting, at a minimum, their prior knowledge of the invasion and thus their complicity in murders.

Source: Office of Representative Luiz Couto

2.2. Severino do Ramo Gonzaga Matos, 20, mason's assistant, and Carlos Roberto Gonçalves do Nascimento, 24, mason's assistant.

On May 30, 1999, Military Police arrested the victims in the Rangel neighborhood for questioning. Three days later, the victims' bodies were found riddled with bullets in Mata do Buraquinho forest on highway BR-230.

The Police report states that Carlos do Nascimento was shot five times in the head, while Severino Matos was shot four times. According to the report, the victims were brutally beaten as soon as they left their houses, placed in the trunk of a Military Police Vehicle but not taken to the police station.

A number of witnesses observed the beating, which occurred in a populated area. The statements given to the Civil and Military Police led to the police recommendation of indictment of military police officers Johnson Cleyton de Albuquerque Dinis, Weldson de Melo Oliveira, Cosme Edílson Borges, Gilvanício Francisco Pontes and Joabe do Amaral Bezerra.

Source: Office of Representative Luiz Couto.

2.3. Executions in Pedras de Fogo and Juripiranga.

Between August 1997 and September 1999 the cities of Pedras de Fogo and Juripiranga were the sites of more than twenty death squad killings. The deaths occurred in houses, in front of commercial establishments and on public streets. The bodies were frequently found riddled with bullets and charred.

It is believed that small shop owners and plant owners financed the killings to intimidate rural workers who were demanding respect for their labor rights. At least five of the deaths were motivated by the actions of workers against their employers.

The information released placed responsibility for the homicides on Military Police officers Flávio Inácio Pereira, "Luís", Dantas and César,

penitentiary agent Severino Augusto da Silva, hired gunmen Serafim, Renan Virgulino, Transit Police Officer Lula, rural estate owner Lulão de Mirim, along with two motorcyclists whose names were not determined. The report also stated that the local prosecutor, Edjacir Luna da Silva, had taken no significant action in the case and was likely complicit to some extent in the murders.

Source: Office of Representative Luiz Couto.

2.4. José Leandro Correia.

On March 25, 1997, José Correia was found dead in a cell in the Cruz das Armas police station, in João Pessoa. The first official autopsy diagnosed an aneurysm, which provoked internal hemorrhaging that stopped his breathing and circulation. After family, colleagues and the state human rights commission denounced the crime, the cadaver was exhumed and another autopsy was done. The cause of death according to this second examination was radically different: vascular, abdominal hemorrhaging probably with traumatic origins.

The police inquiry indicated that agents Sérgio Souza Azevedo and José Ramos do Nascimento were responsible for the death of the victim.

Source: Office of Representative Luiz Couto.

2.5. Clebis Silvestre, 22.

In the early morning of October 17, 2000, heavily armed military and civil police surrounded the home of Clebis Silvestre. Between about 3:00 a.m. and 6:30 a.m. the police and the victim exchanged fire.

According to the statement issued by military police Captain Gutemberg Nascimento, the victim was shot in the leg and then killed himself with a shot to the head, rather than surrendering to the police. Subsequent investigations indicate that Silvestre did not kill himself. His body had been riddled with numerous bullet holes, principally in the head and chest. Instead, he had been executed by the military police, as a means of destroying evidence that he, Silvestre, had regarding the involvement of

three military police (Robson Araújo de Lima, Jocelém Oliveira and Geraldo de Souza Azevedo) in a trafficking ring. Apparently Silvestre partipated with police in a scheme in which the police furnished arms and munitions in exchange for stolen mobile phones.

Rights groups requested a copy of the autopsy and crime scene reports from the State Secretary of Public Security, but did not receive a reply. The report states that the father of the victim has been receiving anonymous death threats by phone and that both military and civil police have frequently gone to his house seeking to obtain documents about the victim or to find his grave. The family is afraid that if the police discover where the body is buried the remains will disappear, since they are the best evidence that suicide was not the cause of death.

Source: Office of Representative Luiz Couto.

3.0 PERNAMBUCO | PE

3.1. F.O.S.

On July 5, 1998, Fábio Oliveira dos Santos rode his motorcycle along one of the principal avenues of Recife, Pernambuco when he encountered a blitz operation performed by a transit police patrol.

Seeking to comply with a police request that he reverse his direction (apparently, dos Santos was headed in the wrong direction) the youth turned the motorcycle. At that point, military police officer Daniel Gomes do Nascimento fired at dos Santos, killing him. The young motorcyclist offered no resistance or danger to the police, nor was he armed.

The police officer suspected in this case has not denied that he killed dos Santos and is being prosecuted for aggravated murder. The public prosecutor has indicted do Nascimento and the judge has forwarded the case to a jury for trial.

Source: CENDHEC - Dom Hélder Câmara Center of Study and Action

3.2. Wellington Carlos de Melo, 17.

Wellington Carlos de Melo, 17, lived in the city of Limoeiro together with his mother. On May 13, 1998, Melo was accused of robbing a fire arm in the city of Caruaru. Authorities arrested Melo, who was sent to the Paratibe Juvenile Detention Center in Abreu e Lima, Pernambuco state.

On June 30, 1998, Melo's mother sought the help of the Dom Hélder Câmara Study and Action Center (Centro Dom Hélder Câmara de Estudo e Ação, CENDHEC), asking for help in determining the cause of death of her son, which occurred on June 16, 1998 in the Paratibe Juvenile Detention Unit. She also stated that on a May 31 visit she found her son extremely nervous, suffering fits of hysterical outbursts and begging her not to leave. When he was about to tell his mother what was happening a Military Police officer, who was monitoring the visit, surprised him saying "you can't tell anyone what happens here". Melo, intimidated by the officer, remained silent.

Melo's family, which did not live in the state capital Recife, could only visit him during occasional visits to the city. Thirteen days after the May 31 visit, Melo's mother returned to Paratibe, intending to see her son. She was not permitted to enter the Juvenile Detention Center.

On June 14, 1998, back in Limoeiro, Melo's mother contacted the Juvenile Detention Center by phone, wishing to get news of her son. Once again she was denied contact. The same day, at around 8:00 p.m. four employees of state juvenile detention service, accompanied by a police officer from Limoeira arrived at the residence of Melo's mother carrying his body in a coffin covered with flowers. They explained that Melo had died of an epileptic fit. Not trusting the employees or the police officer, the family decided to open the coffin and examine the body. The corpse's heavy make up had to be removed to get an accurate picture. After applying oil, marks of torture on the neck, head, face, hands and legs were visible.

The case is still in the investigation stage. The identity of those who committed the homicide is still unknown.

Source: Dom Hélder Câmara Study and Action center (CENDHEC)

3.3. Alexandre Bezerra das Chagas Silva, 18.

On July 11, 1999 at around 6:00 p.m., Alexandre Silva (Alexandre) and his wife Luciana Pórfirio Silva (Luciana) returned to their home in the Afogados neighborhood of Recife. As he walked home, Alexandre noticed he was being followed. Upon realizing that one of those pursuing him was Willians de Santana, Alexandre began to run through the neighborhood in search of help, in light of the fact that Santana had previously threatened Alexandre's life. Luciana was able to find shelter at the closest police station.

The victim hid in the bathroom of the house at located at 47 Uberaba Street. The men continued their pursuit and when they found Alexandre, shot him fifteen times, killing him.

The principal suspect, André Willians de Santana, was arrested and spent almost two years in detention, awaiting trial. In December of 2000, Santana was released from detention due to the excessive delay in the proceedings.

According to information available in the First Jury Tribunal in Recife, the most likely motive for the killing was a dispute between Santana and himself, given that evidence indicated that the two had participated jointly in prior crimes.

Source: GAJOP

3.4. Márcia Maria Eugênia de Carvalho and Odete Medeiros Cavalcanti

Attorney Márcia Carvalho had achieved a number important victories in labor courts in Bonito County, Pernambuco. Her clientele was mostly made up of rural laborers in the Ribeirão and Cortês regions. Carvalho had been receiving threats from local landowners to put an end to her work on behalf of labor rights.

On January 20, 1993, Márcia Carvalho was executed while driving along a minor road in Bonito County with friend Odete Medeiros Cavalcanti and justice official John Kenedy Melo. The ambush started when a car with three male occupants began to pass the lawyers' car. As the victim permitted them to pass, a man shot at her with a twelve-caliber

shotgun, injuring Odete Cavalcanti. The surprise attack caused the lawyer's car stall. While trying to restart her car, Márcia was hit by two rounds. The shooters fled at high speed. When the attacking car was far away, Melo brought the victims to the hospital, where both died.

The owner of the car, estate owner Verinaldo José de Oliveira, was infamous in region for extensive prior record of abuses. The criminal process has proceeded slowly since then, prolonged by the defense's tactics to delay the trial.

Source: GAJOP

**3.5. Amaro Celestino da Silva and
Laércio Celestino da Silva**

In the early hours of January 11, 2001, five men invaded the home of Amaro Celestino da Silva located in a favela (shantytown). The men fired at Amaro, his nine-month-pregnant wife and his brother. Amaro and his brother died on the scene. Although injured, Maria José Lopes Barbosa survived. Barbosa told the Office of the Public Prosecutor that her husband had no criminal involvement and that she recognized two of the perpetrators as "Ao," "Fal" Adelson, and Paulo.

According to Barbosa, her husband had witnessed the group transporting stolen goods on several occasions. On another occasion Amaro warned his employer of the group's plans to steal his car, frustrating the gang's intentions.

Source: GAJOP

**3.6. Maria Quitéria da Silva, Taciana
Maria da Silva, Antônio
Marcelo da Silva, Flávio José da
Silva and José Carlos da Silva.**

Maria Quitéria da Silva was eating dinner with her family around 7:00 PM on February 11, 2001 when about ten armed men invaded her house, firing numerous rounds at all present there.

Only da Silva's husband and youngest son survived the attack. Persons involved in narco-trafficking in Caetés/Abreu and Lima were

identified as the killers.

The attack was attributed to the battle for control of narcotics distribution in the area. Rumor had it that da Silva distributed drugs in the area and used her children in her criminal activities. She had been convicted previously for drug-related offenses.

Source: GAJOP

3.7. Jefferson José dos Santos

On October 2, 1999 at about 12:20 AM, four men on two motorcycles drove by shooting at two young men, Jefferson and "Uarlei." Uarlei was able to flee to safety; Jefferson was fatally wounded.

This crime is believed to be the work of a death squad operating in the cities of Cano de Santo Agostinho. These groups apparently operate under the direction and assistance of local shop owners who hire them to keep their commercial establishments secure.

Inaldo, advisor to a city councilman, and a motorcycle messenger are among the accused.

Source: GAJOP

3.8 Jefferson Santos de Barros and Valmir Francisco de Barros

On the afternoon of March 6, 2001, Adriel Barbosa da Silva, Maurício Rego de Aguiar, Jefferson Santos de Barros and Valmir Francisco de Barros decided to take a shortcut to their houses located in the Timbi neighborhood of Camargibe.

They walked through the open trails of the "Privê" woods surrounding their neighborhood. Close to their houses the young men heard a noise. Surprised and scared in a deserted area, they began to run through the woods towards the hill.

At this point, the adolescents noticed what they perceived to be two military police radio patrol vehicles. The police occupying the vehicles shot at the boys until Jefferson Barros and Valmir Barros fell injured. At this point the other boys, although uninjured, stopped running.

Upon hearing the youths' explanation of what they were doing in the woods, the police administered first aid to the two young men they had shot, who who did not survive their injuries. This case has caused significant public outrage in Timbi.

Source: GAJOP

4.0. RIO DE JANEIRO | RJ

4.1. Harleson Vieira da Silva, 15; Edson Gomes de Lira, 14 and Alex Rodrigues, 17.

Military police killed three adolescents in the early morning hours of August 28, 2000, in Jardim Catarina, in São Gonçalo. The boys bodies were found piled in front of a fireworks store next to Bus Station BR-101, also in São Gonçalo, about twenty-five kilometers from the city of Rio de Janeiro. Before being executed the minors had been dragged by the neck with leather ropes. Their bodies were disfigured by gun shot wounds and showed signs of having been tortured. Family members identified the victims.

The minors had gone out Saturday night to trade video game tapes at the home of a friend from the neighborhood. According to witnesses who did not wish to be identified for fear of reprisal, police from the Seventh Reserve Police Battalion took the three children in two unmarked cars earlier that evening. Antônio de Lira, Edson's father, reported receiving an anonymous phone call that same night, answered by a neighbor answered. The caller asked for a ransom in exchange for Edson. Antônio de Lira drove to the police station to inform the police of the threat. On his return home, de Lira received a second call from the anonymous kidnapper who demanded 3,000 Brazilian reais (about US \$ 1,500) for Edson's return. Antônio was able to gather 500 reais (roughly US \$ 250) and went to the arranged ransom delivery location. He waited there but no one appeared. De Lira returned to the police station and reported what had happened. The police told him to contact them in the event of another call. Their plan was to apprehend the kidnappers at the

moment of delivery. The kidnappers, however, made no further calls to de Lira.

Given that the ransom was not picked up at the meeting place and that de Lira's son, Edson, showed signs of more violent torture than the others, it is believed that the police kidnappers were informed of de Lira's contact with the police battalion and station. The more severe torture that the police kidnappers inflicted on Edson was likely a reprisal for his father's having reported the case to the police.

The 74th Police District opened an inquiry into the case which later investigation proceeded to the Fourth Criminal Division of the São Gonçalo Criminal Court. The investigation led to the indictment of police officers Herbert Sílvio and André Colônia of the Seventh Military Police Battalion, Gustavo Viana and Frederico Matuque of the Shock Troop Battalion, and former Military Police Officer Nascimento. All are being held in pre-trial detention. The trial court has heard statements from prosecution and defense witnesses. At this writing, the trial is in the relatively advanced stage of receiving closing briefs from both sides.

Source: Global Justice Center

4.2. Rodrigo Marques da Silva, 15.

An operation by the First Military Police Battalion in downtown Rio de Janeiro in Coroa Hill, located in the Santa Teresa neighborhood of the city on May 14, 1999, resulted in the death of Rodrigo Marques da Silva (Rodrigo). According to the forensic report of the state morgue (Instituto Carlos Éboli), shots fired by Sgt. Carlos César Mota Pascoal killed da Silva. Pascoal insists that he used his weapon only after Rodrigo first fired at him. Pascoal contends to have found the boy in possession of a Glock .45 caliber pistol, ninety-three small packets of marijuana and two-hundred-twenty-one small bags of cocaine.

Forensic evidence and the testimonies of family and neighbors cast doubt on Pascoal's version of the facts. According to the autopsy, two shots struck the victim: one in the head and another in the leg; both shots were fired behind. This evidence undermines the Pascoal's allegation of an exchange of gunfire in self-defense. Neighbors who witnessed the incident maintain that the not only shot da Silva but also beat him with their rifle butts. Further, the boy's stepfather, Sérgio Lopes asserts that the police

carried the minor by his feet to the police vehicle, allowing his head hit the ground repeatedly, before bringing him to the Souza Aguiar hospital, where he arrived already dead.

According to witnesses, Rodrigo was descending along one of the favela's alleyways to the soccer field, as he did frequently, when a group of police stormed the hill, heading up from the bottom. On encountering the police Rodrigo raised his hands, but police shot him near the ear.

Authorities have suspended Sgt. Pascoal, as well as five other officers involved in the incident. The police investigation into the case recommended indictment of all six police.

Source: Global Justice Center

4.3. Anderson Carlos Crispiniano, 20.

On the morning of June 28, 2000, five armed men took Anderson Crispiniano from his house on Adeus Hill, a favela in suburban Rio de Janeiro. Two of them were dressed in civilian garb; the other three were using Civil Police vests. Although they did not have a warrant for his arrest or any evidence of his having committed crime, the men accused Crispiniano of a two homicides and of hiding drugs in his house.

According to statements made by witnesses to the Global Justice Center, the police did not inform the family of the location to which Crispiniano was brought. The police guaranteed that they would establish contact and demanded that Crispiniano's family provide a contact telephone number. While leaving the hill, a number of residents tried to stop the police from leaving with Crispiniano. The police fired two rounds, dispersing the crowd.

Later that morning, family members went to Polinter, a Rio de Janeiro police station where detainees from Adeus Hill are often brought. They were informed that no prisoner by the name of "Anderson Crispiniano" had been registered as arrested. When the family members left the station, they received a call on their cell phone from the police involved, who demanded that they not involve the police. They callers indicated that they would phone again.

At approximately noon the kidnappers called again but would not divulge the location of their prisoner. At the end of the afternoon they

called again. This time they demanded that the family arrange a ransom of R\$5.000 (about US \$ 2,700), plus Crispiniano's gold chain and his car keys. If the items were not duly brought, the caller indicated, they would kill Crispiniano.

At the scheduled hour, a woman who identified herself as the police officers' lawyer appeared at the community's entrance. At that time the family had not been able to come up with the R\$5,000, but they did bring the chain. At 11:10 PM the same day, the supposed lawyer returned to the same meeting place to receive the R\$4,680.00 the family had gathered. She promised to return shortly with Crispiniano. Twenty minutes later, the supposed attorney returned bringing Crispiniano in the back seat of the car. She told the family and neighbors to remove him from the back seat. According to her, Anderson had suffered an epileptic seizure and could not walk by himself.

When removed from the car, Anderson had trouble talking and said the men had repeatedly beaten his head violently. In addition to the severe beatings, the police officers had pulled out four of his toenails. Soon after returning to his family, Anderson began to lose consciousness. His family took him to a local clinic from which he was later transferred to Bonsucesso General Hospital.

After the incident Crispiniano was incapable of speaking coherently and suffered from partial paralysis and hematomas on various parts of his body. As the case began to attract media attention, police reestablished contact with the victim's family, threatening them and Crispiniano with death.

Three weeks later, on July 18, 2000, Anderson Carlos Crispiniano died from the torture and abuse he received at the hands of the Civil Police.

Source: Global Justice Center.

4.4. Sandro Nascimento, 21.

On June 12, 2000, at around 2:00 p.m. in the Jardim Botânico neighborhood of Rio de Janeiro, Sandro Nascimento entered a bus from the 174 line carrying a weapon. Upon being notified of the armed passenger (apparently a passenger who had recently disembarked informed them) a military police patrol officer ordered the bus driver to stop the vehicle. At this point Nascimento took the passengers hostage,

threatening them with a .38 caliber revolver. The driver, fare-collector, and some passengers managed to flee, but ten passengers remained captive.

The police already on the scene called on the Twenty-third Battalion from the Leblon neighborhood, forces from the Special Operations Battalion (BOPE) and the Second Battalion in Botafogo, and from Special Mobile Tactical Squad for reinforcement. Authorities blocked traffic and set up a barrier to keep journalists, among others, at least twenty meters from the bus. The incident was broadcast live and received vast national and international media coverage.

Cel. José Penteado of BOPE conducted the negotiations with the help of Cel. Luís Soares de Oliveria of the Twenty-third Military Police Battalion. In the course of four hours of negotiation and standoff, Nascimento released three hostages. Nascimento's discussions with the police were especially tense. He repeatedly threatened to kill the hostages and even simulated the murder of one of them. He also hung shirts over the windows and used the fire extinguisher to reduce his visibility.

Around 6:50 p.m., Nascimento exited the bus, using one of the hostages as a shield. Pointing a gun at the head of Geísa Firmo Gonçalves, 20, Nascimento negotiated with Sub-Commander Maj. Fernando Príncipe. At this point, Marcelo Oliveira dos Santos, a police officer squatting in front of the bus, abruptly closed in on Nascimento from the right side and fired two shots. As verified later by the forensic report, neither shot hit Nascimento, who reacted by shooting Gonçalves three times. The hostage was severely injured and died shortly thereafter in Miguel Couto Hospital. Police forced Sandro Nascimento, who had fallen to the ground, into a paddy wagon, and took to Souza Aguiar Hospital in downtown Rio de Janeiro.

As the images of the incident clearly show, Sandro Nascimento entered the BOPE van alive and well. According to the Legal Medical Institute's forensic report, BOPE snipers did not hit Nascimento, whose physical state was at no time compromised before entering the police van. Although the police report accompanying Nascimento's body to the autopsy affirmed that he had sustained a bullet wound, the official autopsy concluded that no bullet wounds were present. The autopsy determined the cause of death to be "mechanic asphyxiation brought about by the constriction of the neck." The forensic report indicates evident signs of asphyxiation, such as intense venial congestion and dark blood (bruising), which confirm that police strangled Nascimento to death inside the police

van that should have brought him to the hospital.

Source: Global Justice Center.

5.0. SÃO PAULO | SP

5.1. G.C.C.

On January 10, 1999, G.C.C. climbed a wall to gain access to a party at a club in Santa Barbara D'Oeste in São Paulo (State) and was surprised by security guards, two of whom were military police. The guards brought G.C.C. to the club's sauna where they shot him in the neck. After he died, they placed his body in a plastic bag and, with the help of two other police who were on duty with a vehicle, and then threw his body in the Piracicaba River.

The incident was reported in Military Police Investigation (IPM) number CPA/1 003/13/99 and IPI number 001/99. The police concluded the investigation and forwarded the case to the First Criminal Division in Santa Barbara D'Oeste, accusing two police officers of homicide. The other two officers were accused of prevarication (failure to comply with a legal duty). The IPM was later sent on to the Civil Justice System as case number 38/99.

Source: Police Ombudsman of the State of São Paulo (Ouvidoria de Polícia do Estado de São Paulo)

5.2. L.A.C.

On February 4, 1999, L.A.C. left his house in Osasco, in the greater São Paulo metropolitan area, to install a stereo in his mother's car. On his way, he was approached by military police he knew who tried to extort him. Unsuccessful, the police brought him to a wooded area where they tried again. Again unsuccessful, the police executed the victim, threw his body into a ravine. L.A.C.'s body was found ten days later. Two police officers have confessed to participating in the crime, but contend that it was a third officer who shot the victim.

The police were accused in an Osasco Jury Trial, Case no. 264/99 and are currently in detention, awaiting trial.

Source: Police Ombudsman of the State of São Paulo

5.3. Anderson Pereira dos Santos, 14; Thiago Passos Ferreira, 17, and Paulo Roberto da Silva 21.

On February 17, 1999, a group of military police officers stopped the three adolescents named above as they were leaving a Carnival party at Ilha Porchat Clube, on the Itararé beach in São Vicente on the São Paulo coast.

The officers belonged to the São Paulo Mounted Police Regiment and contend that they found marijuana on the youths. The officers placed the three in the trunk of the squad car so that they could show the police where they had bought the drugs.

In his statement to the head of Internal Affairs Division, Lt. Alessandro Rodrigues de Oliveira, who commanded the operation, stated they took the adolescents to the favela in the City of Praia Praia Grande they had indicated. Oliveira's stated that on arrival they saw the other two military police officers leaving the wooded area where the three youths' bodies were later found on March 4. The military police informed that that Paulo Roberto da Silva tried to flee, and that Military Police Officer Assis chased after him. Assis fell and his weapon according to this version fired accidentally, striking da Silva in the head. The murder of the other two boys was the result of Officer Assis's despair. According to the Oliveira's statement, the other two military police officers helped hide the bodies.

According to the official medical report (IML), Anderson dos Santos and Thiago Ferreira were both shot above the ear, and had wounds consistent with bullets that cut across their heads. Paulo Roberto was shot slightly above the nape of his neck. The bullet exited through the front of his face above his left eye. The medical report points out that the shots were fired at point blank range. The bodies of the three were not located for fifteen days.

The military police opened investigation (No. 39 BPMI-003/7/99) and an internal probe (No. SCMTPM-007/321/99) which led

to the expulsion of three police officers. The police investigation was sent to the First Criminal Division of Praia Grande as case number 90/99. On April 26, the prosecuting attorney accused the military police of aggravated murder.

Source: Human Rights Commission of the São Paulo Legislative Assembly (Comissão de Direitos Humanos da Assembléia Legislativa de São Paulo).

5.4 J.N.S. and E.G.N.

On March 30, 1999, military police officers suspecting the victims of involvement in drug trafficking approached the victims. The two refused to give information to the police who beat them. One of the officers shot E.G.N. in the stomach. Upon hearing shots J.N.S.'s mother came out of the house but police kept her from coming too close to the two youths. The police also threatened to kill her. Despite the threats to shoot her, she begged the police not to kill them, explaining that her son had a mental disability. The police then told J.N.S. to run and shot at him three times: twice while he was fleeing and once after he had already fallen. Police gunfire struck J.N.S. in the arm, leg and chest. The police put the two victims inside their vehicle; J.N.S. was already dead and E.G.N. wounded, but alive.

When the families arrived at the hospital they were informed that victims were already dead. On seeing the bodies, the families found gunshot wounds in the victims' faces.

The Office of the Public Prosecutor indicted five police officers that participated in the incident and requested their pre-trial detention. The indictment was accepted but the ruling judge refused to order the detention of the officers.

Source: Police Ombudsman of the State of São Paulo

5.5. E.P.I.J.

On April 9, 1999 around 8:00 PM, E.P.I.J. left his house to go to the bakery. Approximately an hour later, a boy informed E.P.I.J.'s family that the officer from the infamous Tobias de Aguiar Patrol (Rondas Ostensivas Tobias de Aguiar, ROTA) had handcuffed and taken E.P.I.J. to

a police station. His mother drove to the police station but was unable to obtain any information. She returned to her house hoping to encounter her son there, but when she did not find him, she began to look for him, unsuccessfully, at other police stations.

At about 12:30 AM on April 10, she returned to the police station where her son should have been brought. There, a ROTA officer told her of a shooting that had occurred earlier and mentioned that two bodies had been taken to the hospital. At the hospital she recognized one of the victims as her son. Witnesses affirm that when the boy was handcuffed and placed in the vehicle no shots had been exchanged with the police. Information about the police investigation of this incident was not available.

Source: Police Ombudsman of the State of São Paulo

5.6. T.H.P and J.M.R.

On August 7, 1999 four military police officers spent all day circulating in the Parque Santa Madalena neighborhood on the east side of São Paulo. They were looking for the motorcycle of one of the four motorcycle which four men had stolen the previous night. That evening three of the officers returned to the neighborhood, in plainclothes, and driving two motorcycles. As they had done during the day, the officers continued to approach neighborhood residents. On Guira Guinumbi Street the officers approached a group of boys sitting on the sidewalk. At this time T.H.P. and J.M.R. were leaving the house on motorcycles to buy a snack, when the police approached them. Afraid that the officers were muggers, the boys did not stop immediately. Instead, they only stopped when the men identified themselves as police officers. The police opened fire, wounding each of the boys in the head and the chest. T.H.P. died on the scene, while J.M.R. was taken to a first-aid station before dying.

This incident was brought to the attention of the Police Ombudsman of the State of São Paulo and the Office of the Public Prosecutor.

Source: State Council for the Defense of the Human Person (Conselho Estadual de Defesa dos Direitos da Pessoa Humana, CONDEPE)

5.7. V.A.A. 20, D.S.A., 15.

On August 26, 1999, three young men were walking along a street in São Bernardo do Campo in the greater São Paulo metropolitan area when four police officers in a Military Police vehicle approached them. The police ordered the youths to follow the street, round the next corner and get in the car. The police took the youths to a wooded area on the Montanhão highway.

On arriving, the police officers forced the youths to take off their clothes. Once the boys had stripped naked the police opened fire with a barrage of bullets. Two of the victims died on the scene; the third youth survived the shots and waited for the police to leave before seeking help. The youth later identified two military police officers as the assailants and also identified the vehicle used, leading to charges against the four military police officers on duty in the squad car at the time of the incident for the double murder.

The police were accused of homicide and attempted homicide.

Sources: São Paulo Legislative Assembly Human Rights Commission

5.8. P.E.R., 9.

On November 20, 1999, a civil police officer killed P.E.R. while he was playing with a friend on the street outside his house. The children were throwing rocks at each other when one of the rocks hit the gate of an officer's house. The officer responded by firing five gunshots from his window. One shot hit the boy in the head, killing him. The policeman said he shot because he thought the rocks were thrown by thieves.

The head of the Civil Police Internal Affairs division opened an investigation into the case.

Source: Police Ombudsman of the State of São Paulo.

5.9. M.B.

On April 1, 2000, police killed M.B., reporting the incident as a shooting. On the contrary, witnesses state that M.B. was standing with his

hands on the roof of the car when police shot him in the knee. After he had fallen to the ground, an officer kicked him over and shot him in the chest.—

The investigation of M.B.'s alleged theft began as Police Investigation number 176/00. Within the Military Police System the investigation into the incident began as IPM number 10BPM-012/11/00 and was eventually transferred to the First Military Court, case number 27388/00.

Source: Police Ombudsman of the State of São Paulo

5.10. J.A.S.

On the night of April 16, 2000, J.A.S was returning to his residence on his motorbike. While driving along João F. Freitas Street the Military Police shot him various times in the back. The police denied assistance to the victim. Civilian bystanders took J.A.S to a local health clinic, where he died.

The twenty-fifth police district initiated inquiry number 162/00 to investigate the homicide.

Source: Police Ombudsman of the State of São Paulo

5.11. R.O.S., 18.

On April 21, 2000 at around 10:00 p.m., R.O.S. left his house to meet his friends. When he passed the corner of Wilson Kamanami Street and Eng. Armando Arruda Av. in the Jabaquara neighborhood in São Paulo, he witnessed a shooting. Frightened, he began to run away. At that moment the police fired in his direction, striking R.O.S. four times. R.O.S. died at a nearby medical clinic.

The investigation in the case has been forwarded to the First Criminal Division of São Paulo, as case No. 052.00.003000-9.

Source: Police Ombudsman of the State of São Paulo

5.12. C.E.F, A.O.L., and E.L.A.F.T.S.J.

On May 12, 2000, at about 5:00 AM, C.E.F, A.O.L., and E.L.A.F.T.S.J. were on their way home when a car entered the wrong way down Voluntários da Pátria Ave. in São Paulo, hitting their car. The driver of the car, a military police officer who apparently was drunk, threatened the three young men, brandishing a gun. Realizing the officer was out of control, the boys ran away, but the officer shot, hitting one of them in the back. Other police officers heard the shots and disarmed the gunman.

Case number PDS n. 3BPChq-1/13.c/00 culminated in the expulsion of the officer from the force.

Report's origin: Police Ombudsman of the State of São Paulo

5.13. K.H.B.

On June 5, 2000 around 6:30 p.m., an off-duty military police officer, was in a mechanic's garage on the South Side of São Paulo when he shot K.H.B. from point blank range in the chest. K.H.B. died from the gunshot on the scene. The officer was arrested for carrying an illegal weapon (the weapon he used apparently had been purchased illegally).

The forty-seventh police district opened inquiries nos. 428/00 and 441/00 to investigate the homicide. The Military Police opened investigation no. 22BPMM-060/5/00.

Source: Global Justice Center

5.14. M.M.S., Truck Driver

On September 8, 2000 M.M.S. was arriving from Rio de Janeiro with his cargo. He left his truck parked in front of his partner's house.

Suspicious that the truck was full of stolen merchandise, passing military police called to the owner of the house to come out. The officers, however, did not identify themselves. The owner of the house saw armed men at his door and thought they were trying to rob him. He shot at the door; the police shot back, and the owner fled while M.M.S took cover in

the bathroom. When the police found M.M.S. they beat him and shot him five times, killing him.

The Police Ombudsman of the State of São Paulo is awaiting information on the status of the investigation into this case.

Source: Police Ombudsman of the State of São Paulo

5.15 Maycon Robson, 20.

On September 15, 2000, Military Police killed Maycon Robson on the corner of Cardeal Arcoverde and Morato Coelho Street. The police report states that Maycon was killed while resisting arrest. He and another young man, by this version, were committing a robbery when police surprised them. The police contend that the two resisted arrest, exchanged fire with the police, and that in this exchange, the victim was struck by gunfire.

Witnesses, however, tell a different version. They contend that neither Maycon nor his friend was armed. The two were near a car and suddenly fled running. Two men, both military police in civilian clothes, chased them and opened fired. The police gunfire struck Maycom Robson, who fell. The military police officers came up Robson, on the ground and shot him again. Witnesses reported this case to the Police Ombudsman, emphasizing that there was no resistance of arrest that would justify a fatal shooting.

Source: Office of State Representative Renato Simões

5.16. J.J.S.

On November 15, 2000 J.J.S. and a friend left a pizzeria around midnight. Military police officers approached the two and orderd them to enter their vehicle despite the fact the victims showed their documents, as requested. The police brought them to a distant location. As J.J.S. got out of the vehicle, the officers shot him in the head. His friend pushed the police and was able to flee. Authorities ordered the pretrial detention of the officers involved.

Source: Police Ombudsman of the State of São Paulo

5.17 Luís Gustavo Romano, 16 and Paulo Bezerra dos Santos, 16.

On January 7, 2001 military police officers executed the two victims. According to the police, the two youths were caught in the act of stealing a car in the Jabaquara neighborhood, resisted arrest by shooting, prior to the police response.

Luís Gustavo Romano's father, Luiz Gonzaga Romano da Silva, stated that his son left the house alone the day before at about 8:00 p.m. without saying where he was going. At about 11:00 p.m., Luís Gustavo's girlfriend arrived to inform the family that a rumor was circulating to the effect that Luís and a friend had been involved in a shooting with the military police, that they had been arrested on Padre Arlindo Vieira Street, that police were beating them right there on that street and that they had injured Luis Gustavo's arm.

Luiz Gonzaga da Silva proceeded to the eighty-third police district to obtain information about his son. Authorities there informed him that there had been no incident involving Luís Gustavo Romano registered in that police district. Gonzaga da Silva then filed a missing persons report. On January 9, 2001, police from the Police Internal Affairs sought Luiz Gonzaga da Silva and took him to the São Bernardo do Campo Legal Medical Institute, where he identified his son's body.

Luís Gustavo had been found dead on the intersection of 31 de Março and Taboão Avenues. He showed signs of having been beaten and shot. Paulo dos Santos's body was found in a wooded area near the zoo.

Witnesses affirm that the boys were alive when they entered the police vehicle. The Military Police Internal Affairs Division arrested several officers accused of having executed the youths.

Source: Office of Representative Wagner Lino.

2

Recommendations⁵³

2.1 Invite the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions for an official visit to Brazil

The Brazilian Government should invite the Special Rapporteur to visit Brazil on an official mission to document the situation of Extrajudicial, Summary or Arbitrary as a first step towards addressing this serious problem.

2.2 Prosecute Violent Police Officers

All abuses committed by police forces, especially homicides where evidence suggests an extrajudicial, summary or arbitrary execution, should be promptly and vigorously investigated and prosecuted in accordance with the international standards codified in the United Nations' Principles on the Effective Prevention and Investigation of Extrajudicial, Summary or Arbitrary Executions.

2.3 Establish Federal Jurisdiction for Human Rights Crimes

The federal government must assume responsibility for prosecuting serious cases of human rights violations by state police. The

*53. These recommendations are based primarily on the recommendations elaborated by Human Rights Watch in its report *Police Brutality in Urban Brazil*, New York, Human Rights Watch 1997. The recommendations included here have been modified and updated during the elaboration of this document.*

federal courts are less vulnerable to political pressures to acquit police who kill without justification. Among the crimes for which we believe federal jurisdiction should apply are homicides with evidence of being extrajudicial, summary or arbitrary executions. Another means of extending the role of federal authorities would be to transfer jurisdiction to federal courts whenever state courts fail to investigate and prosecute crimes against human rights.

2.4 Independently Investigate Police Misconduct

The current system in which police investigate crimes committed by police is perhaps the single factor that most facilitates impunity. Revised procedures should include the following elements:

- Provide incentives for the creation of Corregedorias Gerais de Segurança Pública (General Oversight Offices for Public Security), at the state level; These Corregedorias Gerais would include participation by the Public Prosecutor's Office.
- Create unified Internal Affairs Divisions for both the Civil and Military Police as a means of minimizing the tendency for each police force (civil and military) to close ranks and resist criticism and control by the other force; Brazil's constitution authorizes the Public Prosecutors' Offices to exercise external control of the police.

- **Investigate through the Public Prosecutor's Office;**

The Public Prosecutors' Offices should investigate allegations of police violence autonomously without relying on the police to take witness statements, visit the scene of the crime, or provide other technical support.

- **Create Independent Investigators within the Public Prosecutors' Offices;**

Brazilian authorities should enact legislation to create a staff of investigators within the Public Prosecutors' Offices. These investigators

should be authorized to subpoena documents, summons witnesses, and enter the premises of police facilities in order to conduct thorough and independent investigations.

- **Establish Special Human Rights Divisions within the Public Prosecutors' Offices;**
-

Human Rights Special Divisions should be created within the public prosecutors' offices in each state to investigate crimes committed by police. Where such special subdivisions have been established on either a permanent or *ad hoc* basis, they have helped bring abusive police officers to justice. State governments should establish these human rights subdivisions, and to provide them with an adequate number of prosecutors trained in the area of human rights.

- **Make Technical Experts Independent;**
-

In the overwhelming majority of Brazilian states, the coroner's office (Instituto Médico Legal, IML), and other experts, such as ballistic analysts, are subordinated to the police department or to the secretary of public security who controls the police. As a result of this lack of independence, mandatory examinations of detainees are often not performed and medical examinations, including autopsies, are often not carried out with sufficient detail. The independence of the IML is critical to the maintenance of accurate statistics on homicides, because it would allow police data on lethal use of force to be cross-checked with IML figures on the cause and manner of death in cases when police kill civilians.

2.5. Eliminate Military Jurisdiction over Crimes Against Civilians

The prosecution before military tribunals of police and armed forces personnel accused of abuses against civilians facilitates impunity. Brazil's military courts, each composed of four military officers and one civilian judge, routinely fail to convict military police when they violate the rights of civilians. Civilian courts should be given jurisdiction over all cases

involving murder, torture, or other serious human rights abuses of civilians by police officers or armed forces personnel and not only cases of murder (*homicídio doloso*).

2.6. Promote a Parliamentary Commission of Inquiry (Comissão Parlamentar de Inquérito, CPI) to investigate cases of extrajudicial, summary or arbitrary executions

CPIs, in the past several years, have proven to be important fora for public debate on controversial issues. They have also provoked authorities to take concrete measures to respond to the situations examined. Given the seriousness of the problem of extrajudicial, summary or arbitrary executions, the creation of a CPI to investigate this practice would be an important step towards developing a national policy to limit executions.

2.7 Create the office of Police Ombudsman in all states

The practice of Police Ombudsmen's offices, in the states where this service has been established has proven to be quite positive in terms of documenting in detail cases of police abuse. Since its first creation in 1995 in São Paulo state, similar offices have been established in Pará, Minas Gerais, Rio de Janeiro and Rio Grande do Sul. The federal government should take concrete measures to stimulate the creation of Ombudsmen's offices in other states. These institutions should also be given full subpoena powers, and should be allowed to enter police facilities to conduct examinations and interrogate any public servant, especially policemen.

2.8 Protect Witnesses

Many witnesses to police abuse are afraid to testify for fear of retaliation. Every state should be granted the financial means to develop an effective program to protect witnesses. To improve the national witness protection program it is necessary to train the Federal Police staff and create centers to support victims and witness providing them with legal

and psychological assistance.

2.9 Impose Administrative Discipline

Notoriously abusive policemen should be dismissed administratively or, at the very least, suspended from active duty until criminal charges have been resolved. At a minimum, police accused of homicide should be placed on unarmed duty until investigations are completed. The practice, followed in several states, of waiting for the courts to convict officers before removing them administratively should be abandoned. In addition to prosecuting abusive police officers criminally, police internal affairs divisions should carry out vigorous reviews to identify and discipline police officers who engage in abusive conduct.

Two provisions of the Brazilian Constitution contains at least two provisions (art. 41, sec. 1 and art. 42, sec. 7 and sec. 8) that ensure tenure for certain civil servants, both military and non-military, despite convictions entered against them. These provisions have been interpreted so as to undermine legitimate efforts to dismiss abusive police officers. To the extent that the Brazilian Constitution guarantees police officers their positions notwithstanding involvement in grave human rights violations, it must be amended.

2.10 Modify the Appointment of Assistants to the Prosecution

Brazilian NGOs have pressed for prosecutions in homicides committed by police by acting with the consent of the families, as assistants to the prosecution (*assistente de acusação*). However, these NGOs are not permitted to intervene when the victims of violence are not identified, or when the family members, fearing reprisals, do not authorize them to act as assistants. The Brazilian Congress should approve legislation empowering non-governmental organizations to act as assistants to the prosecution, in appropriate circumstances, without requiring the authorization from the family of the victim.

2.11 Control Deadly Force

Authorities must take decisive steps to ensure police agents use

deadly force only as a last resort to protect life. Brazilian police should respect international standards in this regard. In particular, the United Nations' Basic Principles on the Use of Force or Firearms by Law Enforcement Officials provides that "Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting authority or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life" (Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, U.N. Doc.E/AC.57/DEC/11/119, 1990, Annex, Paragraph 9 (Special Provisions), p. 146.).

2.12 Provide incentives to State Governments to implement the principles on force and the use of firearms by staff and law authorities

The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, U.N. Doc.E/AC.57/DEC/11/119, 1990, Annex, Paragraph 9 (Special Provisions), p. 146.), cited above, constitute important guideline for police action in situations of potential violence. These standards should be widely distributed among state public security secretariats in response to federal incentives.

2.13 Control Firearms Discharges

Police forces both civil and military must keep more rigorous controls on firearms use. One means of guaranteeing such control is to require that an incident report be filed for each weapon discharge. Such a reporting requirement would underscore the extremely grave nature of firearm use and discourage the careless and criminal use of weapons.

2.14 Absolutely Prohibit the Use of Non-Official Weapons

Under no circumstances should police be authorized to carry firearms not registered to the police department while on duty. In prior reports, Rights groups have consistently documented cases in which non-official weapons were placed on victims to create the appearance of a shootout. Moreover, shots fired from these weapons may never be traced to a particular officer's gun, thus enhancing the possibility that unlawful police killings remain unpunished.

2.15 Provide More Intensive Training

The training necessary to convert a high school graduate into a public servant equipped to enforce the law is intensive and time consuming. Yet, in several states, recruits begin as armed, uniformed police after only three months at a police academy. One area of particular concern is weapons training. Before being entrusted with firearms, including machine guns, police officers should undergo intensive training and should be required to pass rigorous standardized tests of proficiency.

- **Ensure Training in Non-Lethal Means of Controlling Dangerous Situations**
-

In many of the life-threatening situations in which police must act, the only means of avoiding the loss of life is through the employment of deadly force. However, in many others, less violent methods of arresting armed and dangerous suspects may be employed. Brazilian police must be trained in the use of non-lethal methods and encouraged to employ those methods.

- **Unify the Police Academy Training**
-

All police forces must be trained in a uniformed way taking in consideration respect for basic human rights. In Brazil, each police force conducts its daily operations independently. In order to promote an

integrated and rights-sensitive police force, it is fundamental that uniform police academy training based on respect for human rights be implemented.

2.16 Pay Higher Salaries for Police Officers

Police work demands an enormous personal and psychological commitment and also provides innumerable opportunities for graft and corruption. These factors weigh in favor of paying police officers a salary that accords with the responsibilities and risks that come with the job. In many states, officers beginning careers in the police earn less than US\$300 per month. Pay raises must be accompanied by intensive internal review procedures designed to eliminate violent and corrupt officers from police forces.

2.17 Gather and Publish Data on Abuses

In some states, public authorities have begun to compile and make available data on homicides by police. Those states the majority which have not made these figures available should do so immediately. In addition, authorities should gather and organize data on a precinct-by-precinct basis to facilitate more detailed review of police conduct. Authorities should also periodically inform the public regarding the number of administrative and criminal investigations of alleged police abuse that are underway and the status and disposition of those cases.

2.18 Promote educational campaigns about the practice of extrajudicial, summary or arbitrary executions

The culture of violence is deeply embedded in Brazilian society. Efforts should be made to change the conception of the police force as well as the meaning of violence among the population. One focus of such campaigns should be the practice of extrajudicial, summary or arbitrary executions.

2.19 Create a System of Criminal Data and Statistics

The internal contradictions of existing data demonstrate the need for a systematic national database on homicides. The government should invest in an efficient data management system to diagnose the reality of violence and the needs of its population. Failure to do so will guarantee continued high rates of criminal violence.

2.20 Reinforce Technical Policing Methods

A good police investigation is only possible if police practices are professional which in turn requires quality technical work. In general, the technical police in Brazil is outdated and undervalued. This situation reflects the lack of support and importance given by the states to technical investigation.

Appendices



National Human Rights Movement (Movimento Nacional de Direitos Humanos) Database on Reported Homicides

Introduction

Since 1992, the National Human Rights Movement (Movimento Nacional de Direitos Humanos - MNDH) has maintained a database on homicides in Brazil. The project began with case documentation in the Northeastern States of Ceará, Rio Grande do Norte, Paraíba, and Pernambuco and began expanding in 1994 to include, gradually, all twenty-seven units of the Brazilian Federation (twenty-six states and the federal district).

Successful public security policies will only be formulated when accompanied and supported by concrete data that clearly reveal the nature of the violence that plagues Brazil. This realization prompted the MNDH to structure and implement a database on violence that focused specifically on homicides. The absence of quality data on violence not only interferes with the potential to develop effective policies but also undermines the ability to evaluate the effectiveness of current public security policies.

The database provides the MNDH and other related organizations with systematic knowledge on violence/homicides in Brazil and thus contributes to the formulation and improvement of public security policies at the state, regional and national levels. Together with civil society and the State, the MNDH established this database as a reference on violence/homicides in Brazil and a study of their evolution.

Content

The specific focus on reported homicides is motivated, by the fact that this crime constitutes a violation of the most fundamental human

right *the right to life*. This motivation alone provides sufficient cause for the MNDH, an organization for the defense and promotion of human rights, to promote the implementation of this database. A second motivation is the proportionate importance of the issue for Brazilian society in terms of the extensive coverage newspapers provide. Generally speaking, homicides are the crimes with the greatest visibility in Brazil. Newspapers that specialize in the coverage of violence/homicides exist throughout Brazil. Examples include the *Folha de Pernambuco* in Pernambuco; the *Jornal O Pequeno* in Maranhão; *Agora* in Piauí; *Extra* in Rio de Janeiro, and most pointedly, *Povo do Rio*, also in Rio de Janeiro.

The database divides its content into five sections. The first deals with the incidents on a general level and includes the following variables: attribution of the homicide to a group or individual; day and hour in which the death occurred; motives and circumstances; weapon(s) utilized; location, according to the most specific residence, public place, neighborhood or municipality identified; further type of violence accompanying the homicide (*i.e.*, torture, rape).

The second part deals with sources and makes it possible to trace parallels between two newspapers, identifying whether a front-page headline and/or photographs of the victims and suspects were published and describing the amount of space given to each incident. This information helps identify the type and amount of treatment the media provides to homicides.

The third section contains information that may be used to trace victims' profiles according to variables such as: name, age, race, sex, occupation, physical characteristics, involvement with drugs, types of drugs, involvement in illicit activities, type of illicit activities, and the relationship between the victim and the suspect.

Except for the information on the relationship between the victim and the suspect, the same variables available on the victims in section three are given for the suspects in the fourth section.

The fourth section provides special value for the discussion on violence and criminality in Brazil. If it is essential to have a profile for the

victims of homicides, it is equally important to have profiles of the perpetrators of such crimes. This information facilitates the proposal and development of more complete strategies that may help reduce the elevated numbers of homicides in Brazilian society.

Finally, the fifth part provides a descriptive synthesis of each incident and includes: important declarations/statements regarding the incident, explanations for differences in information given by different newspapers, person(s) responsible for police action, lists of witnesses, addresses of the victims and suspects, and investigators' observations.

Sources

We chose print media as the primary source for this investigation and the substance of the database because it is available in all states and has set the standard for reporting homicidal crimes. The criteria used to choose which newspapers to include were: daily circulation and consistent reporting on violence/homicides.

This decision was based on the fact that official sources are often inaccessible in many Brazilian states, do not represent the national standard for reporting on homicidal crimes, and do not provide synthesized information on criminal suspects.

Methodology

Researchers distributed among the twenty-seven states work daily to maintain and update the database, following the guidelines established by the Procedural Manual and the Table of Codes.

Data Collection Procedure

A researcher responsible for the collection and input of data is assigned to each one of the twenty-seven research centers. Various centers employ a second researcher to verify the research submitted by the first researcher. The data collected in each center is periodically sent via email to the MNDH headquarters in Brasilia, which hosts the database.

Evaluating Policies and Entering the Debate

As an additional form of contributing to the existing debate and promoting effective policies, the MNDH maintains several publications in which the database's information is analyzed. The newsletter *MNDH DADOS* provides a channel for the analysis of the database information collected throughout Brazil. The newsletter is also intended to contribute to the researchers' professional training and to promote the exchange of information among them.

The three books published by MNDH serve as important references. The first, *Violência e Crime no Brasil Contemporâneo: homicídios e políticas de segurança públicas nas décadas de 80 e 90*, is based on a critical analysis of the data and indicators produced by the State and by non-governmental organizations in Brazil. The two themes, mentioned in the work's very title (Violence and Crime in Contemporary Brazil . . .) raise emerging subjects pertaining to citizen security at the national level.

The other publications are the fruit of a partnership with the University of Brasília (UNB) and the Federal University of Goiás (UFG). Through this partnership, the MNDH initiated the publication of the *Violência em Manchete* series (Violence in Headlines) and released two issues: *Primavera já partiu: retrato dos homicídios femininos no Brasil* on female homicides in Brazil and *A cor do medo: homicídios e relações raciais no Brasil* on homicides and racial relations. In the beginning months of 2001 two more issues of the *Violência em Manchete* series will be released one on political violence and the other on violence in the workplace.

The information provided by the MNDH database is also being used at the regional and state levels. In the Northeast, MNDH's regional office published *Dupla Face da Violência*, (The Two Faces of Violence) an inventory of violence/homicide in five states (Cereá, Rio Grande do Norte, Pernambuco, Paraíba and Sergipe.)

Many states utilize the data from the Database to evaluate policies associated with the MNDH and to produce numerous publications. Among these, the books, articles and/or dossiers published in Acre, Pará,

Ceará, Piauí, Rio Grande do Norte. Pernambuco, Alagoas, Bahia, Rio de Janeiro, São Paulo, Rio Grande do Sul, Espírito Santo, and Mato Grosso deserve special mention.

Concluding Remarks

In carrying out research at the national level, the National Human Rights Movement has discovered several truths. The first is that through the presentation of data collected from the print media, it is possible to take a political stance on issues of justice and public security. The data and indicators collected by researchers and made available through the Database have already made important contributions to the national understanding of homicide and violence.

According to the information provided by newspaper reports, for example, approximately ninety percent of homicide victims are men and ten percent are women. Men are also more often the victims of crimes committed in public spaces. The book *A Primavera já partiu: retrato dos homicídios femininos no Brasil* confirms that more than sixty percent of female homicide victims are killed by persons close to them (family member, friend, neighbor). *A cor do medo: homicídios e relações raciais no Brasil* addresses the fact that civil and military police kill three times more *blacks* than *whites*.

Research also shows that for every four adolescent (age twelve to seventeen) homicide victims, only one has been accused of committing a homicide. This fact is extremely important, considering there are currently several bills in Congress to reduce the age of criminal responsibility from eighteen, to sixteen, fifteen, fourteen, and even eleven years of age.

The second truth is that the Database is a powerful tool for focusing the MNDH's interventions in the public debate on violence and homicides in Brazil. The third is that social, non-governmental organizations are capable of motivating both state and national governments to generate more reliable statistics on pressing social issues. Indeed, these were the MNDH's very objectives with the database's birth in 1992.

BIBLIOGRAPHY

1. **Benvenuto Lima Jr., Jayme.** *Grupos de Extermínios: A Banalização da Vida e da Morte em Pernambuco*, Olinda: Liber Gráfica, 1991.
2. **Briceño-León, Roberto; Carneiro, Leandro Piquet; and Cruz, José Miguel.** "O apoio dos cidadãos à ação extrajudicial da polícia no Brasil, em El Salvador e na Venezuela." in: Pandolfi, Dulce Chaves, et al. (eds.). *Cidadania, Justiça e Violência*. Rio de Janeiro: Fundação Getúlio Vargas, 1999.
3. **Caldeira, Teresa Pires do Rio.** "Direitos Humanos ou 'Privilégios de Bandidos?'" *Novos Estudos CEBRAP*, n. 30 (July 1991).
4. **Cardia, Nancy.** "Direitos Humanos e Cidadania," in *Os direitos humanos no Brasil*. São Paulo: Núcleo de Estudos da Violência/Comissão Teotônio Vilela, 1995.
5. _____. "O Medo da Polícia e as graves Violações dos Direitos Humanos," *Tempo Social, Revista de Sociologia da USP*, vol. 9, n. 1, (May 1997).
6. **Carvalho Filho, Luís Francisco.** *O que é Pena de Morte*, São Paulo: Brasiliense, 1995.
7. **Corbisier, Roland.** *Raízes da Violência*, Rio de Janeiro: Civilização Brasileira, 1991.
8. **Fauré, Christine.** *Les Déclarations des Droits de l'Homme de 1789*, Paris: Payot, 1988.
9. **Gabinete de Assessoria Jurídica às Organizações Populares (GAJOP).** *O Extermínio em Pernambuco*, Recife: GAJOP, 1995.
10. **Human Rights Watch,** *Police Brutality in Urban Brazil*, New York: Human Rights Watch, 1997.
11. **Levin, Leah.** *Direitos Humanos Perguntas e Respostas*, São Paulo: UNESCO/Editora Brasiliense, 1985.
12. **Menandro, Paulo Rogério and Souza, Lídio de.** *Linchamentos no Brasil: a Justiça que não tarda mas falha*, Vitória: Fundação Ceciliano Abel de Almeida, 1991.

13. **Mott, Luiz.** *Violação dos Direitos Humanos e assassinato de Homossexuais no Brasil*, Salvador: Editora Grupo Gay da Bahia, 2000.
14. **Núcleo de Estudos da Violência - USP/Comissão Teotônio Vilela.** *Relatório Americas Watch - Violência Rural no Brasil*, São Paulo: Americas Watch, 1991.
15. **Oliveira, Dijaci David de; Geraldles, Elen Cristina; Lima, Ricardo Barbosa de** (eds.). *Primavera já partiu: retrato dos homicídios femininos no Brasil*. Série Violência em Manchete. Brasília: MNDH, 1998.
16. **Oliveira, Dijaci David de; Geraldles, Elen Cristina; Lima, Ricardo Barbosa de; Sales, Augusto dos Santos** (eds.). *A cor do medo: homicídios e relações raciais no Brasil*, Série Violência em Manchete. Brasília: MNDH, 1998.
17. **Oliveira, Luciano.** *A dupla face da violência*, Coleção Oxente Regional Nordeste do MNDH. Recife: MNDH, 1994.
18. _____. *Do Nunca Mais ao Eterno Retorno Uma reflexão sobre a tortura*, São Paulo: Editora Brasiliense, 1994.
19. _____. "A 'Justiça de Cingapura' na 'Casa de Tobias' Opinião dos alunos de direito do Recife sobre a pena de açoite para pichadores," *Revista Brasileira de Ciências Sociais* v. 14, n. 40 (1999).
20. **Pinheiro, Paulo Sérgio.** *Escritos Indignados*, São Paulo: Editora Brasiliense, 1984.
21. **Ratton Jr., José Luiz de Amorim.** *Violência e Crime no Brasil no Contemporâneo: homicídios e políticas de segurança públicas nas décadas de 80 e 90*, Brasília: MNDH, 1996.
22. **Secretaria da Justiça e da Defesa da Cidadania.** "Senso Comum e Transparência." *O Preconceito*, São Paulo: Imprensa Oficial do Estado, 1996/1977.
23. **Silva, José Fernando da.** "Narcotráfico e homicídios no meio rural: um estudo apenas introdutório," in Ribeiro, Ana Maria Motta e Iulianelli, Jorge Atílio Silva (eds.). *Narcotráfico e violência no campo*, Rio de Janeiro: Koinonia/DP&A Editora, 2000
24. _____. "Adolescentes: Acusados ou vítimas?" *MNDH Dados*, n. 2, Ano

- I (September 1999).
25. _____. "Homicídio no Brasil: alguns aspectos da visibilidade." *MNDH Dados, n. 1, Ano I* (July 1999).
 26. _____. "Idade do crime," *Diário de Pernambuco*, (23 April 1999).
 27. _____. "Banco de Dados do MNDH: Uma Fonte alternativa para a análise dos homicídios no Brasil," in Ratton Jr., José Luis de Amorim (ed.). *Coleção Oxente, n.º 3* (December 1996).
 28. **Souza, Percival de**. *Autópsia do Medo: vida e morte do delegado Sérgio Paranhos Fleury*, São Paulo: Editora Globo, 2000.
 29. **Superior Tribunal de Justiça**. *A Proteção Internacional dos Direitos Humanos e o Brasil*, Brasília: STJ, 2000.
 30. **Tavares, Celma Fernanda**. *Violência Policial Reflexões sobre sua tolerância entre segmentos da sociedade no Recife*, Masters Dissertation in Political Science, Federal University of Pernambuco, Recife, 1999.
 31. **Uprimny, Rodrigo**. "Violência, Ordem Democrática e Direitos Humanos," *Lua Nova, n. 30* (1993).

PARTICIPATING ORGANIZATIONS

Catholic Relief Services

Catholic Relief Services is an international agency for humanitarian assistance and sustainable development. It was founded in 1943 by the United States Episcopal Bishops Conference to assist the poor and discriminated groups in foreign countries. CRS's policies and programs reflect and express the Catholic Church's social teachings.

CRS considers solidarity and cooperation to be the most important motives for their presence in more than eighty countries. It seeks to value and defend human dignity, demonstrate a commitment to peace, justice, and reconciliation, and celebrate and protect the integrity of all creation.

In Brazil, CRS supports local partnerships in the Northeast that promote sustainable development and human rights and encourage communities' participation in their own development. CRS Brazil's three guiding objectives are to: a) strengthen and unite forces combating social exclusion, b) strengthen civil society to influence the policies and structures that determine access to resources, especially at the local level, c) support relationships among communities on local, regional, national, and international levels in order to promote solidarity.

Catholic Relief Services headquarters is located in Baltimore, Maryland, USA.

*Global Justice Center (Centro de
Justiça Global)*

The Global Justice Center seeks to: a) prepare Brazilian human rights organizations to act at the international level; b) document human rights violations in areas of conflict and file petitions and reports through intergovernmental bodies for the protection of human rights and the media; c) promote the implementation of international standards on human rights; d) advise Brazilian NGOs on how to gain access national and international media effectively; e) strengthen international networks of human rights organizations in support of Brazilian organizations; f) guarantee victims' representation in individual cases of human rights violations on the international level.

The Global Justice Center's advocacy and documentation work is carried out both directly, through its on-site research and advocacy teams in conflict areas, and indirectly, through the distribution of information and documentation provided by local human rights groups.

The Global Justice Center organizes workshops on human rights issues, focusing on international legal instruments. In order to train individuals working with social movements, the Center strives to organize workshops in partnership with universities and NGOs.

*Ecumenical Services Coordination
(Coordenadora Ecumênica de
Serviços CESE)*

CESE is a philanthropic organization comprised of several churches Catholic, Lutheran, Methodist, Episcopal-Anglican, and Presbyterian, committed to the ecumenical affirmation of life. It aims to establish structures in which justice and democracy prevail and prioritizes equal access to financial resources and spaces for public dialogue. CESE's primary objective is to strengthen popular groups working for political, economic, and social transformations.

Created on June 13, 1973, CESE emerged in the midst of military regime that had been governing Brazil since 1964. In a country subject to dictatorship, the CESE made its mark by distributing thousands of copies of the Universal Declaration on Human Rights interspersed with Biblical passages and official statements from national and international churches. Including following editions of the text, the CESE distributed almost two million copies the little blue book a daring political statement.

CESE prioritizes local development through the support of small projects. Seedling, demonstrative, and referential public policy projects are promoted through the identification of their strengths and the reinforcement of group autonomy. Aware of its role as a social protagonist, CESE takes strong positions on important social issues such as the police massacre of the landless in Eldorado do Carajás and the Plebiscite on External Debt. It maintains an ongoing dialogue with national and international organizations of many kinds.

*International Federation for
Human Rights (Fédération
Internationale de Ligues de Droits
de l'Homme, FIDH)*

The FIDH's vocation is to promote the implementation of the Universal Declaration of Human Rights and other international instruments of human rights protection. The FIDH is a nonprofit, non-partisan, non-sectarian network of solidarity composed of 105 national

human rights organizations located throughout 86 countries. The MNDH and the Global Justice Center are the two member organizations of the FIDH in Brazil.

As a recognized, nongovernmental organization promoting international solidarity, the FIDH aims to: a) mobilize this community of nations, b) prevent human rights violations and support civil society, c) witness and alert the international community about human rights violations, d) inform and protect human rights and denounce their violation.

Historically, the FIDH is the first international organization to defend human rights. It functions independently of any government or political party and is politically and religiously impartial. The highest international authorities recognize the information disseminated by the FIDH's competent, professional, and personally committed staff.

The Federation's programs are financed by personal and commercial donations, publication sales, and members' dues. The FIDH also receives grants from international and national organizations and foundations.

Ford Foundation

The Ford Foundation is a private, nonprofit organization created in the United States to provide support for innovative persons and institutions worldwide. Their objectives are to: strengthen democratic values, reduce poverty and injustice, strengthen international cooperation, and advance human achievement.

The Ford Foundation works mainly by making grants or loans that build knowledge and strengthen organizations and networks. Since its financial resources are modest in comparison to societal needs, the Foundation focuses on a limited number of problem areas and program strategies within its broad goals.

Founded in 1936, the Foundation operated as a local philanthropy in the state of Michigan until 1950, when it expanded to become a national

and international foundation. Since its inception, it has been an independent, nonprofit, nongovernmental organization. The Foundation has provided slightly more than \$10 billion in grants and loans.

*Cabinet for Juridical Assistance to
Popular Organizations
(Office for Legal Assistance to
Grassroots Organizations)*

The Office for Legal Assistance to Grassroots Organizations is a nongovernmental human rights organization created in 1981 in the state of Pernambuco in the Northeast of Brazil. GAJOP's mission is to contribute to the democratization of the Brazilian State and society by strengthening citizenship. GAJOP's mission statement includes the following objectives: a) to contribute to the respect of the right of security and justice as a necessary condition for full democracy and citizenship, b) to contribute to the preservation of life, physical and psychological integrity, and liberty, c) to prioritize the defense of the rights of children and adolescent rights.

GAJOP works closely with the MNDH Northeast Regional Office and the Brazilian Association of Nongovernmental Organizations (Associação Brasileira de Organizações Não Governamentais, ABONG). Its activities include: taking legal action (in cases of homicides committed by police officers, death squads, and members of organized crime); continuously monitoring Pernambuco's judicial and security systems; providing education on human rights (for police officers, prison guards, students, social workers, etc.); and accessing international instruments for the protection of human rights.

In partnership with the MNDH Northeast Regional Office, GAJOP developed the program Human Rights International (dhInternational) to train activists on how to use international human rights protection bodies (*i.e.*, those of the United Nations and the Organization of American States) to promote justice in cases of human rights violations. From this perspective, GAJOP is also politically engaged, in the sense that through its qualified presence in the area of human rights, it moves both Brazilian society and the international community to respect these rights.

*National Human Rights Movement
(Movimento Nacional de Direitos
Humanos, MNDH)*

The MNDH is a nonprofit, democratic, ecumenical, non-partisan organization created by civil society. It functions throughout Brazil through a network of more than 300 related organizations. The MNDH was founded in 1982 and is today, the primary spokesperson for the promotion of human rights in Brazil.

The MNDH's actions are founded on the mission statement, *In Defense of Life, Against Violence.*" It focuses on the universal, interdependent, and indivisible nature of human rights, as articulated in the 1986 Olinda Declaration (Carta de Olinda, de 1986). Its principal objective is to create a culture of human rights where dignity and respect for the physical, moral, and intellectual integrity of humankind prevail, regardless of race, ethnicity, socioeconomic status, political, religious, or sexual preference, etc.

The following focuses guide the MNDH's programs: a) training social activists to organize, strengthen, and articulate the needs of civil society, b) creating public policy proposals that affirm citizenship in its broadest sense, c) participating actively in the historical struggles of excluded groups, d) active lobbying on both the national and international levels.

*National Movement on Human
Rights Northeast Regional Office
(Movimento Nacional de Direitos
Humanos Regional Nordeste)*

The MNDH Northeast Regional Office works with 75 affiliated organizations on clearly-defined projects such as: *The Program for Monitoring Public Policy (Programa de Monitoramento das Políticas Públicas)*, which aims to develop public policies on justice and security issues with a specific focus on the Northeast; *The Program for Institutional Development (Programa de Desenvolvimento Institucional)* which seeks to train affiliated organizations to find alternative forms of subsistence, as well as the

external goal of establishing relationships with international human rights organizations; *The Professional Training Program (Programa de Formação)*, aimed at training human rights activists; *The Program for Economic, Social and Cultural Human Rights (Programa de Direitos Humanos Econômicos, Sociais, Culturais DHESCs)*, created to analyze the successful experiences of affiliated organizations and transform them into new public policies for the Northeast; *The Volunteer Program for Human Rights (Programa Voluntário para os Direitos Humanos)*, which seeks to create a voluntary program that focuses on human rights.

Inter-American Platform on Human Rights, Democracy and Development Brazilian Section (Plataforma Interamericana de Direitos Humanos, Democracia e Desenvolvimento Seção Brasileira)

The Inter-American Platform began in the early 1990s and has been successful in promoting the exchange of experiences among the many forces working toward the implementation of human rights throughout the Americas more specifically, those in Peru, Ecuador, Argentina, Chile, Bolivia, Cuba, Colombia, Paraguay and Venezuela, among others. In recent years, the MNDH has coordinated the Brazilian section of the Platform.

While the theme of human rights was gaining strategic importance in Brazil, especially in the areas of economic, social, and cultural human rights, the MNDH opted to expand participation in the Platform, which now includes: the Food First Information and Action Network (FIAN-Brazil), the Global Justice Center, GAJOC, the Justice and Peace Commission of São Paulo (Comissão Justiça e Paz), and FASE.

The Brazilian section of the Inter-American Platform acts within the following areas: a) lobbying and organization at the international level; b) organization of annual campaigns in Brazil on themes not ordinarily associated with economic, social and cultural rights; c) monitoring the implementation of human rights in Brazil; d) overseeing the process of revising and amplifying economic, social and cultural rights in the Brazilian National Human Rights Plan; e) creating national special

rapporteurs to develop civil society consultations on the situation of human rights in Brazil, f) promoting professional training in human rights, g) selecting exemplary cases to be filed in domestic and international (UN and OAS) legal fora, h) promoting specialized publications on human rights.

About the Authors

Benvenuto Lima Jr., Jayme: Attorney, Coordinator for the International Human Rights Program of GAJOP and MNDH Northeast Regional Office; Masters in Law, Federal University of Pernambuco (Universidade Federal de Pernambuco); thesis: *Os Direitos Econômicos, Sociais e Culturais Como Direitos Humanos*; author of numerous articles on human rights issues, including "A Eficácia dos Direitos Econômicos, Sociais e Culturais no Constituição Federal de 1988;" Editor of this publication.

Brito, Valdênia: Staff attorney, GAJOP; specialist in urban development, Catholic University of Pernambuco; Masters in Law from the Federal University of Pernambuco; Author of several articles on human rights including "Tolerância e Direitos Humanos," "Vítimas da Violência: Por que entram no Programa de Proteção" and "Efetivação dos Direitos Humanos: Desafios à Democracia."

Cavallaro, James Louis: Director, Global Justice Center; A.B. in Government, Harvard University, 1984; J.D., University of California Berkeley, 1992; Ph.D. candidate, Human Rights and Development, Universidade Pablo de Olavide (Spain); researcher and Brazil Office Director, Human Rights Watch, 1992-1999; author of numerous publications on human rights in Brazil, including *Police Brutality in Urban Brazil* (New York: Human Rights Watch, 1997); petitioning attorney in nearly two dozen cases filed before the Inter-American Human Rights System.

Oliveira, Luciano: Professor of political Science professor, Federal University of Pernambuco (Universidade Federal de Pernambuco); Director, Masters program in Political Science; author of *A Vergonha do Carrasco Uma reflexão sobre a pena de morte* (Recife: 1999); *Do Nunca Mais ao Eterno Retorno Uma reflexão sobre a tortura* (São Paulo: Brasileirise, 1994); and *A dupla face da violência* (Coleção Oxente Regional Nordeste

do MNDH, Recife: MNDH, 1994), among other texts.

Piovesan, Flávia: Professor of Human Rights and Constitutional Law at the Catholic University of São Paulo (Pontifícia Universidade Católica de São Paulo, PUC/SP); visiting fellow at the Human Rights Program at Harvard Law School (1995 and 2000); member of the Justice and Peace Commission, the Latin American and Caribbean Committee for the Defense of Women's Rights (Comitê Latino-Americano e do Caribe para a Defesa dos Direitos das Mulheres -- CLADEM) and the Advisory Board of the Global Justice Center; Assistant Attorney General and Coordinator for the São Paulo State Attorney General's Working Group on Human Rights.

da Silva, José Fernando: Graduated in History from the Catholic University of Pernambuco (Universidade Católica de Pernambuco, UNICAP); advisor for the MNDH Database; member of the organizational team for the *Violência em Manchete* series; advisor to National Council on Children's and Adolescents' Rights (Conselho Nacional dos Direitos da Criança e Adolescente CONANDA) 1999-2000 and 2001-2002; coordinator, Luiz Freire Cultural Center (Centro de Cultura Luiz Freire) programs for children and adolescents.

Analytical and Organizational Team

Jayne Benvenuto Lima Jr. (Ed.), Valdênia Brito, James Cavallaro, Oscar Gatica, Fabiana Gorenstein, Fernando Matos, Paulo Moraes, Luciano Oliveira, Flávia Piovesan, Rosiana Quieroz, José Fernando da Silva, Juliana César Tavares, Miguel Tello

Case Systematization

Fabiana Gorenstein, Juliana Cesar Tavares

English Translation

James Cavallaro, Jenny Trinitapoli

Acknowledgments

To the Brazilian and international organizations that made the presentation of this publication during the 57th session of the United Nations Human Rights Commission in Geneva in April 2001 possible:

Catholic Relief Services
 Ecumenical Services Coordination CESE
 International Federation for Human Rights
 Franciscans International/Dominicans for Justice and Peace
 Ford Foundation Brazil

To the organizations and people who have provided summary accounts of cases of extrajudicial, arbitrary or summary executions:

- Don Helder Câmara Social Studies and Action Center, Maria Aparecida Pedrosa Bezerra
- Human Rights Center of the Archdiocese of Fortaleza, João Accioly
- Global Justice Center, Cristina Buarque de Hollanda (Rio de Janeiro) and Sandra Cavalho (São Paulo)
- Office of Representative Luiz Couto (PB), Representative Luiz Couto and Itamiran Cavalcanti
- GAJOP, Fabiana Gorenstein and Juliana Cesar Távares
- Police Ombudsman of the State of São Paulo

To the organizations associated with the National Human Rights Movement With primary responsibility for the MNDH Database on media-reported homicides in Brazil:

Center for Human Rights and Popular Education

(Centro de Direitos Humanos e Educação Popular, Acre)

Researcher: *Iolanda Almeida Frazão Santos*

Center for the Defense of the Child and Adolescent

(Centro de Defesa da Criança e do Adolescente Pastoral do Menor, Amapá)

Researcher: *Maria Ivani M. da Silva*

Justice and Peace Commission of Salvador

(Comissão de Justiça e Paz da Arquidiocese de Salvador, Bahia)

Researcher: *Lutz Mulert Souza Ribeiro*

National Street Children's Movement

(Movimento Nacional de Meninos e Meninas de Rua, Distrito Federal)

Researchers: *Sueli Vieira, Sílvia Regina Brandão*

MNDH Support Center

(Centro de Apoio / MNDH Leste I, Espírito Santo)

Researcher: *Ana Maria Caracoche*

(IBRACE, Goiás)

Researchers: *Marcos Pereira, Irene Maria dos Santos*

Betim Center for Human Rights

(CDDH Betim, Minas Gerais)

Researchers: *Antônio Ribeiro, Mara Sueli*

Society for Advising Popular Movements

(Sociedade de Assessoria aos Movimentos Populares, Paraíba)

Researcher: *Expedita Mangueira Lima e Silva*

Office for Legal Assistance to Grassroots Organizations

(Gabinete de Assessoria Jurídica às Organizações Populares, Pernambuco)

Researcher: *Itamar Miguel da Silva*

Human Rights Commission Archdiocese of Teresina

(Comissão de Direitos Humanos Arquidiocese de Teresina, Piauí)

Researcher: *Raimundo Renato Bezerra da Silva*

Torture Never Again

(Grupo Tortura Nunca Mais, Paraná)

Researcher: *Henrique Ehlers Silva*

Center for Cooperation and Popular Activities/Center for Community Legal Support

(Centro de Cooperação e Atividades Populares / Núcleo de Apoio Jurídico a Comunidades, Rio de Janeiro)

Researcher: *Fábio Gama Brown*

Center for Human Rights and Popular Memory

(Centro de Direitos Humanos e Memória Popular, Rio Grande do Norte)

Researchers: *Heronilza N. Castro e Silva, Geruza de Fátima Avelino*

Center for Human Rights Diocese of Roraima

CDDH Diocese de Roraima

Researcher: *Wanderliza de Paiva Pinheiro*

Afro-Sergipean Society for Studies on Citizenship

(Sociedade Afrosergipana de Estudos da Cidadania, Sergipe)

Researchers: *Valdenice de Oliveira Santos, Renata Verônica Cortes, Marcello de Vasconcelos Leite*

Christian Action to Abolish Torture

(Ação dos Cristãos para Abolição da Tortura, São Paulo)

Researchers: *Rita de Cássia C. Nogueira, Bernardo Hervy*

Cristalândia Center for Human Rights

(Centro de Direitos Humanos, Cristalândia)

Researcher: *Lucina Soares de Lima Barros.*

Simão Bororo Center for Human Rights
(CDDH Simão Bororo, Mato Grosso)
Researcher: *Fabiana Simões Ferreira da Silva*

**If you know of other cases of
extrajudicial, summary or
arbitrary executions, please
contact the UN Special
Rapporteur:**

Ms. Asma Jahangir
Stenman.hchr@unog.ch
Pespinella.hchr@unog.ch