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1. Introduction

On 31 March 2005, 29 people were killed in the Baixada Fluminense district of Rio de Janeiro. The killings were attributed to a group, believed to consist of military police officers, who drove through the Baixada Fluminense between 8.30 and 11pm, shooting randomly at passers by. Fourteen-year-old schoolboy Douglas Brasil de Paula was playing pinball in a bar when he was killed. Elizabeth Soares de Oliveira was working in her husband's bar when she was shot. João da Costa Magalhães was sitting at the door of his house when the gunmen fired on him, while Rafael da Silva Couto, a 17-year-old schoolboy, was cycling along the Via Dutra when he was shot dead.

This was the worst massacre in Rio de Janeiro's history, but it was not a new or isolated phenomenon. For the millions of Brazilians¹ who live in *favelas*² – impoverished urban settlements where shelters are invariably precarious and land tenure is largely irregular – violence both as a result of criminality as well as at the hands of police³ is an inescapable part of life.

View from Rocinha, one of the largest *favelas* in Brazil, looking down towards São Conrado one of the wealthiest neighbourhoods in Rio de Janeiro. © Kita Pedroza/ www.vivafavela.com.br

The *favelas* share a lack of basic services such as electricity, sanitation and water, and their inhabitants face widespread discrimination. A UN-Habitat report stated that *favelas* are "...popularly seen as a space for the city's 'shady characters, bums, troublemakers and dirty.' The medical metaphors 'cancer' and 'wound' are recurrent."⁴ A large percentage of the poor in Brazil's main cities are black, mixed race or internal migrants from the poor north-east of the country. Youths from these

¹ About 82 per cent of Brazil's population of over 186 million lives in urban areas, of which 6.6 million are reported to live in slums or *favelas* according to the Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari. Mission to Brazil. UN Doc. E/CN.4/2005/48/Add.3, para.13 and 15.

² *Favela* is the Brazilian word for shanty town.

³ Brazil has four principal police forces. Two are the federal police, responsible for federal crimes, and the federal transport police, both of which report to the Ministry of Justice. There are also two state police forces; the military police, responsible for policing the streets; and the civil police, responsible for investigative policing. Municipal authorities have the power to set up municipal guards, which play different roles in different municipalities.

⁴ UN-Habitat, *The Challenge of Slums: Global Report on Human Settlements 2003*, 2003, p. 226

socially excluded communities have few options. Social and racial discrimination hinder or limit the meagre opportunities that exist in education and employment and leisure facilities are scant. Drug trafficking and crime remain and can, as a result, become an inevitable alternative for a minority of these communities.

The levels of violence and crime are extremely high throughout Brazil, especially in the main urban centres where homicide rates are amongst the highest in the world. In 2002, there were almost 50,000 homicides, while hundreds of thousands of people were violently attacked or robbed. However, it is the *favelas*, whose inhabitants are deprived of effective state protection, especially effective police protection, which suffer the greatest concentrations of homicides and violent crime.

The levels of criminal violence in the *favelas* are shocking, with populations trapped between criminal violence and the violent methods adopted by the police. Many are dominated by crime some are even under the day-to-day control of drug factions or criminal gangs.⁵ Other communities suffer from the violence of those seeking to impose alternative justice or vigilantism in the absence of the state. Yet, when the police do intervene, it is often by mounting "invasions" – violent mass raids using no warrants or, on rare occasions, collective warrants⁶ that label the entire community as criminal. Human rights violations and corruption on the part of the police are rife in the *favelas*. The majority of the victims of police violence are poor, black or mixed race youths and the experience of many *favela* residents is that the police are corrupt, brutal and to be feared.

Brazil's police forces use violent and repressive methods that consistently violate the human rights of a large part of the population. Thousands of people have been killed by elements within Brazil's military police; many have been unarmed and presented no threat. Before the Baixada Fluminense killings, four high-profile massacres had shocked the world: unarmed detainees in São Paulo's Carandiru detention centre in 1992; children sleeping on the steps of Candelaria Cathedral in 1993; *favela* dwellers in Vigário Geral in 1993; and land activists in Eldorado dos Carajás in 1997. Countless other killings have gone unreported. Official statistics show that in 2003, police in the states of Rio de Janeiro and São Paulo killed 2,110 people in situations registered officially as "resistance followed by death". This is a denomination which automatically implies self-defence on the part of the police officer, circumventing full investigation. In addition to police killings, a significant minority of police are

⁵ Academics and public security experts differentiate between youth gangs, such as are found in the USA and Central America, and drug factions, like those in Rio de Janeiro, which are extremely hierarchical and have very different social and racial structures. This report refers to drug factions to differentiate them from street gangs.

⁶ *Mandados de busca e apreensão generalizados*, See Chapter 4, Indiscriminate punishments.

actively involved in corruption and criminal activity. As a result, repressive and corrupt policing in Brazil, far from reducing levels of violence and crime, has contributed to their growth and has alienated large parts of the population.

While publicly condemning human rights violations and repression, state and federal authorities have largely reinforced their use. Traditional policies in public security were more about containing violence in areas where it was deemed socially acceptable, namely *favelas*, rather than combating it. As a result, members of state and federal authorities have adopted increasingly confrontational language on issues of public security, have promoted military-style police operations, and have trained army units to intervene to maintain social order.

Their approach has falsely separated public security from human rights and failed to offer protection to those most in need. However, genuine security depends on respect for human rights for all. Public security entails protecting people from being killed and from suffering violence in all its forms. Security cannot be about the protection of some people at the expense of many others.

Not only have these repressive methods proved ineffective in combating violent crime, they have also contributed to a process of social exclusion and discrimination, effectively abandoning the socially excluded to the control of criminal gangs and drug factions. Many people described this process to Amnesty International as the "criminalization of poverty".⁷

Successive Brazilian governments have taken an aggressive and confrontational line on public security to foster public and electoral support. They have failed to challenge the belief among police forces that uncontrolled use of lethal force is acceptable practice. In particular, they have not publicly condemned police shootings of unarmed civilians, have not effectively investigated such incidents and have not punished police officers who have committed crimes. In a few extreme cases some politicians have openly called for the summary execution of criminals.

Public Security. © Angeli

By failing to address the long-term public security needs of all sectors of Brazilian society, successive governments have allowed for policing based on human rights violations and corruption to become institutionalized, especially in poor communities.

⁷ Global Justice, *Rio Report: Police Violence and Public Insecurity*, 2004, p. 19

This has contributed to the levels of crime and violence in these communities, on the one hand by not effectively combating criminality but also through the appearance of violent alternative “justice systems” and vigilantes who seek to replace the absent state. As a result this has reinforced and perpetuated patterns of social discrimination and exclusion. Socially excluded communities have been the double victims – they have suffered not only from public security policies that have excluded them from effective police protection, but also from police violence and corruption committed with impunity. Aggressive police operations, poor police training and resources, and systematic impunity for police crimes have cemented a cycle of violence which is devastating poor communities.

Addressing violence demands a detailed and long-term strategy from federal and state authorities. To be successful, such a strategy must identify and target the causes of violence as well as respond to its incidence and effects. It must, therefore, identify the areas where violence is most prevalent and address the specific needs of these areas. These include access to education, increased employment opportunities and better cultural and leisure facilities. The strategy must also recognize the fundamental role of policing based on international human rights standards as well as on the needs of individual communities, seeking to overcome the mutual mistrust between police and the socially excluded population.

On the basis of its research, Amnesty International found that:

- Socially excluded communities have been denied public security by the state, condemning them to higher levels of violent crime and systematic violations of their human rights;
- Policing based on containment and invasion of socially excluded communities has “criminalized” their residents, who suffer persistent discrimination from the criminal justice system, from elements of the media and from wider society;
- Excessive use of force, extrajudicial executions, torture and corruption have become standard practices among certain elements within the police, sustained by impunity for the perpetrators. In socially excluded communities this has destroyed the credibility of the state as protector of human rights among those most in need of protection;
- The failure to provide representative, responsive and accountable human rights-based policing to socially excluded communities has further distanced these communities from the state. Genuine security can only be achieved through the fulfilment of all human rights as part of a preventive, multi-sectoral approach.

Non-governmental organizations and grassroots activists, combined with academic expertise, provide a thorough understanding of the problems of public security in Brazil. They have also shown that they have the will and the capability to find effective solutions. In many states, community-based human rights groups have established community forums and supported the creation of various kinds of community policing and community security projects. These often involve different government bodies and parts of civil society, and their achievements have been impressive, leading to notable reductions in homicide rates. Unfortunately, it has proved difficult to transfer this expertise and goodwill into long-term policy solutions, as both state and federal governments have consistently allowed short-term economic and political goals to override other concerns.

It is the duty of governments to ensure security and guarantee the rights of every member of their population, as set out in the Universal Declaration of Human Rights among other instruments. Responsive, representative and accountable human rights-based policing must play a part. Governments must ensure that police comply with standards set out by the UN and the Inter-American system governing their conduct.⁸ They must also ensure that the police work effectively for all citizens. Within the context of ensuring "social order", the effective deployment of a policing service in a manner that respects human rights is one of the key means by which a sovereign state can fulfil both its international obligations and its obligations to its own citizens.⁹

President Luiz Inácio Lula da Silva introduced a long-term plan for public security reform during his 2002 election campaign. The government's subsequent *Sistema Único de Segurança Pública* (SUSP), the Single Public Security System, set out guidelines to direct states through the reform policy. Two of the main principles of the SUSP are: "human rights and police efficiency are compatible and mutually necessary," and "preventive social action and police action are complementary and should be combined in security policy."¹⁰

⁸ These should include, but not be limited to: International Covenant on Civil and Political Rights; International Covenant on Economic Social and Cultural Rights; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; UN Code of Conduct for Law Enforcement Officials; UN Standard Minimum Rules for the Administration of Juvenile Justice; UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions; the American Convention on Human Rights.

⁹ Crawshaw R, Devlin B, Williamson, T, *Human Rights and Policing: Standards for Good Behaviour and a Strategy for Change*, 1998, in Amnesty International, *Malaysia: Towards human rights-based policing*, (AI index ASA 28/001/2005), p. 3.

¹⁰ Ministério da Justiça, Secretaria Nacional de Segurança Pública "Apresentação dos Planos Estaduais de Segurança".

• *Direitos humanos e eficiência policial são compatíveis entre si e mutuamente necessários;*

Regrettably, although some progress has been made in the area of disarmament contributing to reductions in the homicide rate, the proposed reforms have not yet been effectively implemented, as shown by the persistent high levels of human rights violations by police and the continuing violence suffered by large parts of the population. The federal government's interest in these reforms has also been called into question following its announcement, in April 2005, that it had cut the national public security budget from R\$412 million to R\$170 million. Political will and financial support must be invested in these reforms if Brazil is to improve public security. To this end, the government should create, implement and monitor a national action plan for the reduction and prevention of criminal violence, in line with recommendations of the World Health Organization (see appendix 1).¹¹ The plan should include broad participation from all areas of government, should be targeted to the areas of most need, and should be the subject of wide consultation with civil society.

This action plan must include:

- A plan to reduce homicides, especially in areas of high concentration, making the reduction of lethal violence a priority of public security policy.
- Public security reforms to create human rights-based policing agencies that are representative, responsive and accountable to all the community. These reforms should be based on international human rights standards, including those set out in the UN Code of Conduct for Law Enforcement Officials;
- A concerted plan to reduce the number of killings by the police, including preventive and punitive measures;
- Effective controls over the sale and transfer of arms both within the country and internationally.

This report describes how socially excluded communities are trapped between the high levels of violent crime perpetrated by criminal gangs and drug factions on the one side and the repression, human rights violations and discrimination by the police forces, meant to provide them with protection, on the other. While national homicide rates have risen fairly consistently since the transition to democracy in Brazil, this report contends that increased levels of violence have been largely concentrated in areas of social exclusion underlining the state's failure, or reluctance, to ensure their

• *Ação social preventiva e ação policial são complementares e devem combinar-se na política de segurança.*

¹¹ World Health Organization, *World Report on Violence and Health* 2002, Geneva

effective security. By describing the common methods of policing, this report identifies the discrimination and human rights violations by, and corruption within, the police forces, which effectively "criminalise" poor communities and exacerbate the violence they suffer. Furthermore, the report addresses the negligence shown by state and federal authorities, as a result of their reluctance to address the profound problems that permeate the public security system. All of which have allowed the levels of violent crime and human rights violations to persist. Finally, the report introduces the few examples of good practice that exist and which could point the way to effective public security reform.

2. A history of violence and discrimination

In September 2003 Rio de Janeiro's daily newspaper *O Globo* published a letter complaining about songs sung during training by members of the elite wing of Rio de Janeiro's military police, the *Batalhão de Operações Especiais* (BOPE). These included lyrics such as:

The interrogation is very easy to do / get the slum dweller and beat him till it hurts / Interrogations are very easy to finish / get the criminal and beat him till he dies. [*O interrogatório é muito fácil de fazer / pega o favelado e dá porrada até doer / O interrogatório é muito fácil de acabar / pega o bandido e dá porrada até matar.*]

A criminal from a slum / you don't sweep up with a broom / you sweep them up with grenades / with a rifle and with a machine gun. [*Bandido favelado / não varre com vassoura / se varre com granada / com fuzil, metralhadora.*]¹²

The attitude to policing socially excluded communities has historically been based on prejudice, discrimination and containment. Back in 1900 a police commissioner wrote:

"It is impossible to police this area, which has a concentration of deserters, thieves and squaddies, as there are no streets, the shacks are built of wood and covered in zinc, and there is not one single gas outlet in all the community, as such for the complete extinction of the known bandits we must encircle the area, which to be effective will need reinforcements of at least 80 fully armed policemen."¹³

¹² *O Globo*, "Gritos de Guerra do BOPE assustam Parque Guinle", 24 September 2003.

¹³ Alba Zaluar & Marcos Alvito (eds), *Um século de Favela*, 2003, p. 8.

[É] ali impossível ser feito o policiamento porquanto nesse local, foco de desertores, ladrões e praças do Exército, não há ruas, os casebres são construídos de madeira e cobertos de zinco, e não existe em todo o morro um só bico de gás, de modo que para a completa extinção dos

Violence and human rights violations as methods of policing were institutionalized under Brazil's military dictatorship, which lasted from 1964 to 1985. The security forces used torture and extrajudicial executions, not only for political repression but also for social control. In 1972, Amnesty International documented the rise of "death squads", groups of active and off-duty police officers involved in killing criminal suspects and street children for small business and shop owners. These "death squad" operations were authorized at the highest levels of government.

For most of the military dictatorship, Brazil underwent an impressive period of economic growth. The rise of the country's industrial economy, centred on its southern states, contributed to large-scale internal migration. From 1960 to 1996 a total of 46 million people moved from rural areas to medium-sized or large cities which were unable to deal with increased demands on their infrastructures.¹⁴

The 1980s, however, saw the start of economic decline. There was a sudden increase in unemployment and average wages were cut sharply, leading to a steep rise in poverty. Although the overall economy recovered in the following decade, economic inequality continued or even increased.¹⁵ By 1998, the richest 20 per cent of the country had a 64.4 per cent share of income or consumption while the poorest 20 per cent had only 2 per cent. Only countries like Namibia, Botswana and Central African Republic show markedly worse rates of inequality than Brazil by this measure.¹⁶

In 1985, Brazil underwent a transition from military dictatorship to a presidential democracy. While the pattern of brutal political repression eased, the security structures were largely maintained. The military police were still responsible for policing the streets with the civil police in charge of investigations. There were few if any efforts to reform the police, and no process to bring to justice those guilty of human rights violations under the military regime. Abusive policing techniques persisted, with wealthier sectors of society demanding the police act as a force for social control rather than ensuring public security.

It is also notable that the transition from the military regime to democracy coincided with the steady rise in levels of crime, especially violent crime. Brazil's cities were

malfeitores apontados se torna necessário um grande cerco, que para produzir resultado, precisa pelo menos de um auxílio de 80 praças completamente armados.

¹⁴ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Miloon Kothari. Mission to Brazil. UN Doc. E/CN.4/2005/48/Add.3, para.13.

¹⁵ Op cit, Alba Zaluar & Marcos Alvito (eds), p. 27.

¹⁶ UNDP, *Human Development Report*, 2004, p. 188

badly affected by the growth in the drugs trade and the trade in illegal arms from the middle of the 1980's. Cities like São Paulo, Rio de Janeiro, Recife¹⁷ and Vitória, became pivotal centres for the local and regional drugs trade, and gun-related deaths rose nationally from 7.2 per 100,000 in 1982 to 21.8 in 2002. Large parts of cities, namely socially excluded communities, increasingly fell under the control of criminal gangs and drug factions.

In 1994, members of the army were used in policing operations in the *favelas* of Rio de Janeiro during what was termed "Operation Rio". The federal authorities have allowed the army to be used during certain high profile public security operations, principally in Rio de Janeiro. Human rights groups report numerous human rights violations resulting from the army's intervention. © João Ripper

Yet, in the face of these changes, successive governments have failed to address the economic disparity, discrimination, repressive policing and corruption that have allowed violent crime to flourish. The main casualties of these failures are the inhabitants of the *favelas*.¹⁸ In particular, the authorities have failed to ensure that the forces under their control act to protect the public, especially the most vulnerable. In the words of the Minister of Justice, Dr Márcio Thomas Bastos, to Amnesty International's Secretary General, "the criminal justice system, including the police, the detention system and the judiciary are a production line for crime."¹⁹

Discrimination

In a vicious circle of discrimination, the presence of criminal gangs in the *favelas* is not only a source of danger to community members, but also feeds the discrimination and stigmatization they face. All members of the community are treated as criminals.

¹⁷ Recife is the state capital of Pernambuco. The state of Pernambuco is the location of the so called "marijuana polygon" [polígono da maconha], the main area of cultivation of marijuana in Brazil. Coca is not planted in Brazil.

¹⁸ The rapid rise in crime was undoubtedly concentrated in socially marginalised areas, as highlighted by UN-Habitat in their 2003 report on slums:

Evidence from some cities, especially in Latin America and the Caribbean, points to the need to confront the underlying causes of urban crime and violence and making slums safer for habitation. During the 1960's and 1970's the greatest fear among slum dwellers in some Latin American cities, especially those in squatter settlements or *favelas*, was of eviction either by government or by private landowners. Today, this has been replaced by fear of violence and crime, including shootings related to drug trafficking...[S]ome recent analyses...suggest that slum dwellers are not a threat to the larger city, but are themselves victims of urban crime and related violence, often organized from outside slum areas. Slum dwellers are, in fact, more vulnerable to violence and crime by virtue of the exclusion of slums from preventive public programs and processes, including policing.

In: United Nations Human Settlements Programme *The Challenge of Slums: Global Report on Human Settlements 2003*, pg xxviii

¹⁹ Interview with Dr Marcio Thomaz Bastos, 5 November 2003, Ministry of Justice, Brazil.

“*O bairro fica mal visto, não dá para conseguir trabalho.*”
The neighbourhood becomes marked, you can’t get work.

“*Não pode sair da comunidade sem ser logo abordado pela polícia.*”²⁰
You can’t leave the community without being immediately stopped by the police.

Prejudice extends to health care, as well as education and employment. Members of the Sapopemba human rights centre²¹ have complained that when Sapopemba residents visited the local hospital, they faced delays in treatment, disrespectful and discriminatory behaviour and were often dismissed as criminals. One resident told Amnesty International that a teacher had said to her: “Why should I teach your children if they’re only going to become criminals anyway?” [*Porque que devo dar aula se seus filhos só vão ser bandido mesmo?*]

People living in *favelas* face entrenched discrimination when looking for work or entering the education system. This has led some to “borrow” an *endereço chique* (posh address) from a former employer or friend when applying for jobs. Amnesty International was even informed of cases where several residents pooled together to rent a property so as to have a suitable address to give to potential employers.

In the face of such widespread stereotyping, *favela* residents are constantly forced to differentiate themselves from criminals, often stressing that they are a *trabalhador* (worker), especially when addressing officials.

During several visits by Amnesty International to *favelas* in São Paulo, Rio de Janeiro and Belo Horizonte, residents consistently stressed the lack of opportunities for education and employment for young people in these communities. Time and again they described the difficulties in accessing education, the distances many had to travel, the lack of leisure activities, the contempt with which youths were treated by figures of authority, and the violence that many suffer at home.

²⁰ Amnesty International interviews with community residents, July 2004.

²¹ Sapopemba, an hour’s drive from the centre of São Paulo, is the second largest municipal district in the city. It is also one of the poorest. Approximately 300,000 people live in the community of whom around 46,000 live in improvised dwellings distributed between 37 *favelas*. Close to a third of its inhabitants are under 18. The rate of unemployment is 21 per cent higher than the city’s average and the district itself only provides jobs for a quarter of the working age population. Sixty-eight percent of the population earn up to five minimum salaries (the minimum salary stands at R\$300 per month, c.US\$ 120, at time of writing. Five minimum salaries would thus be R\$1,500, or c. US\$600) and 10 per cent do not have any income.

Brazil's massive social divide can also be seen in the growth of the private security industry, which allows those who can afford it to effectively bypass the public security system. It is widely reported that private ownership of bullet-proof cars in Brazil is among the highest in the world,²² while heavy security around private apartment blocks and the number of gated communities continues to grow. In order to supplement meagre salaries many military police officers and some civil police officers work as private security guards in companies that are poorly regulated and often accused of violent and criminal acts.

Sensationalist coverage of violent crimes by parts of Brazil's television and press has increased public fear and reinforced discriminatory stereotypes while distorting the true picture. It has strengthened calls for repressive methods to combat crime, while failing to address its real focal points or causes.

Crimes committed against middle class victims prompt widespread coverage, while the deaths of *favela* residents receive little or no attention. For example, the brutal killing of a young middle class couple in November 2003, in the interior of the state of São Paulo, shocked the nation and led to a campaign to reduce the age of criminal responsibility, while the fatal shooting, reportedly by members of the military police, of a 13-year-old girl in a *favela*, in the east of São Paulo, in July 2004, was generally ignored even though local residents and human rights groups organized a public demonstration to protest the judiciary's reluctance to address cases of police killings in the region. Moreover, Amnesty International was informed that a human rights defender who reported the crime suffered death threats as a result.

These examples underline the disinterest shown by both the authorities and the public at large towards the high levels of violent crime suffered by socially excluded communities. The vacuum left by the state's absence in these communities has in turn created conditions for alternative forms of justice through vigilantes and increased levels of criminal violence.

²² In 1995, sales of car armouring in Brazil stood at 388 cars, this rose to 4,681 in 2001, tapering off to 3,045 in 2004. "Brazil's armoured car industry looks abroad", Associated Press, 22 September 2005.

3. Crime and punishment in marginalized communities

The pattern of violent crime

Over the past 25 years, violent crime, in particular homicide, has soared.²³ Socially excluded groups have been the principal victims of the most brutal crimes.

The total number of registered homicides in Brazil has risen from 30,586 in 1993 to 49,640 in 2002.²⁴ Today, more than twice as many youths die in homicides as in traffic accidents. International comparisons are telling. In Brazil, there are 52.2 homicides per 100,000 youths,²⁵ whereas in the USA the rate is 13.2 per 100,000 and in Italy it is 2.1 per 100,000.²⁶ Firearm-related deaths in Rio de Janeiro during the 1990s were higher than those in conflict zones such as in Angola and Sierra Leone.²⁷

National Homicide Rate Source: Datasus

The rise in the murder rate is not even – it is concentrated in areas of greater socio-economic exclusion and reduced police presence (see maps in appendix 2) as well as among specific social groups. In the city of São Paulo, Jardim Ângela, a socially deprived district in the south of the city, suffered 309 homicides or 123 per 100,000 in 2001, while the middle class district of Moema, only a few kilometres away, suffered 2 homicides or 3 per 100,000 in the same year.

In Espírito Santo, the percentage of youths shot dead, as opposed to other causes of death, stood at 52.56 per cent in 2000, while in Pernambuco it stood at 63.98 per cent and in Rio de Janeiro 68.4 per cent, compared to a national average of 29.95 per cent.

²⁸

Figures cited by UNESCO, in their report mapping violence in Brazil, show that 93 per cent of all homicide victims in Brazil in 2000 are male. While the average

²³ Note that in 2004 recorded levels of homicides declined by 8.2% according to ministry of health statistics, the first such decline in 13 years.

²⁴ Waiselfisz, Jacobo, *Mapa da Violência IV: os Jovens do Brasil*, UNESCO, 2004, p. 44.

²⁵ Ibid p. 147.

²⁶ Ibid p. 147.

²⁷ From the report *Children of the Drug Trade*, by Luke Dowdney, cited in ibid p.114-115.

²⁸ Ibid p. 83.

homicide rate in 1000 was just over 20 per 100,000, the corresponding rate for youths aged 15 to 24 was almost 50 per 100,000.²⁹

Black youths, in particular, are at risk. According to UNESCO's study on violence in Brazil, there are approximately the same number of white youths as black youths, around 16 million. Yet, black youths suffer double the number of homicides. Of the 17,900 youths who were victims of homicides in 2002, 11,308 were black while 6,592 were white.³⁰

Gun ownership in Brazil

One of the contributing factors to the high levels of violent crime has been the prevalence of small arms in Brazil. It is estimated that there are around 17 million small arms held in Brazil of which 15 million are held privately. Of those around 9 million are held illegally; 4 million are believed to be held by criminals.³¹

In the most deprived *favelas*, the homicide rate is highest. In a study of concentrations of homicides in the city of Belo Horizonte, Claudio Beato of the Federal University of Minas Gerais found that,

"...slums associated with higher numbers of homicides had several social welfare and life quality indicators which were considerably inferior to other areas of the city. For example, they had a higher percentage of employment in the informal sector as compared to other parts of Belo Horizonte. Moreover, child mortality was greater and illiteracy more prevalent. The urban infrastructure index also was significantly more deficient in the localities of higher homicide rates (a five fold difference)."³²

Today, poor, ill-educated black youths are suffering violent deaths in their thousands if not their tens of thousands. Brazil's major urban centres are seeing a generation of young men killed in high levels of armed violence linked to drug crime, in what the former National Secretary for Public Security, Professor Luís Eduardo Soares, has consistently described as "genocide".

²⁹ Waiselfisz, Jacobo, *Mapa da Violência III: Os Jovens do Brasil*, UNESCO, 2000.

³⁰ Op cit, Waiselfisz, Jacobo, 2004, p. 59.

³¹ Instituto de Estudos da Religião (ISER), Institute of Studies of Religion *Brazil: the arms and the victims*, 2005, p. 120.

³² Beato, C, "Crime and Social Policies in Latin America: Problems and Solutions" Woodrow Wilson Centre, Update on the Americas, 2002, No 7, p. 3.

Vigilantism

While only a small percentage of those from favelas are directly involved in criminal activities, criminality affects the whole community. Criminal gangs and drug factions virtually control some *favelas*, especially in Rio de Janeiro, enforcing their rule through intimidation and violence. At the same time, vigilantes [*justiceiros*] seek to fill the vacuum left by the absence of an effective justice system.

Given the high incidence of crime in many of these communities, and the absence of effective state protection, justice or redress, some within the communities resort to their own forms of "justice." Lynchings are reportedly common. While they appear to be acts of popular violence independent of the state, they go unpunished and in reality are often tolerated and even encouraged by agents of the state. The victims are usually poor: the poor attacked by the poor.³³

The Rede de Observatórios de Direitos Humanos, which set up human rights "observatories", for a period of time, in socially excluded communities in the south of São Paulo, reported in 2001 that violent "justice" is meted out against suspected criminals, especially in cases of rape or abuse of children, as "little is expected from the justice system or the police for the resolution of these problems."³⁴ The absence of the police was notable in these communities. The nearest police station was more than an hour and half away and many of the residents reported seeing corpses abandoned on the streets as it would be a day or two before they were inspected and removed by the police.³⁵

Police inaction and disrespect generates further violence, contributing to the process of "normalizing violence" [*banalização da violência*] a phrase which Amnesty International delegates heard regularly during their visits to *favelas*.

Criminal gangs and drug factions

The domination of many *favelas* by criminal gangs results from the combination of inadequate public security and limited political representation. Communities whose political representatives either ignored them or corruptly exchanged benefits for votes, and whose main contact with the state was with a repressive and corrupt police force,

³³ This analysis was originally set out in: Amnesty International, *Beyond Despair: an agenda for human rights in Brazil*, (AI Index: AMR 19/15/94), 1994, p 7.

³⁴ Rede de Observatórios de Direitos Humanos, *Relatório de Cidadania: os jovens e os direitos humanos*, 2001, p.

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³⁵ *Ibid* p. 24.

became easy targets for figures of power, "*donos*", who offered a mix of paternalistic protection and violence. With the rise of drug trafficking, these evolved into criminal gangs who identified socially excluded communities as lucrative ground for the sales and distribution of drugs, and who, in some cases, also took control of decision-making over other aspects of community life.

While every *favela* has its own circumstances, it is increasingly the case, especially in Rio de Janeiro, that criminal gangs and drug factions impose their presence and sometimes effectively dominate socially excluded communities. In some areas, criminal gangs and drug factions enforce their own set of rules over residents, demanding loyalty and respect, in exchange for "protection" and some limited economic investment. This takes the form of individual handouts, investment in leisure activities or increased spending of drug funds in local commerce.³⁶

Drug factions and guns

The level of armaments in *favelas* is extremely high and becoming more sophisticated. In Rio de Janeiro police confiscated 3,891 revolvers between 1960 and 1969. This increased to 53,526 between 1990 and 2001.³⁷ While the majority of guns seized are revolvers and pistols, there has been a marked rise in the number of high-velocity weapons, including assault rifles, machine guns and sub-machine guns.³⁸ Around three-quarters of the weapons apprehended by the police are made in Brazil, but there has been an increase in the numbers of foreign weapons seized, especially high-velocity weapons.³⁹ According to recent press reports, police have also found grenades, mortars, bazookas and land mines in the hands of drug factions, some believed to have been stolen or illegally obtained from the military. The *Instituto de Estudos da Religião* (ISER), Institute of Studies of Religion, a research centre in Rio de Janeiro, suggests that drug factions in Rio de Janeiro's *favelas* are trying to match the police's ever increasing fire power.⁴⁰

Young drug trafficker displays his weapons outside a *favela* in Rio de Janeiro, October 2005.

³⁶ Drug factions reportedly sometimes invest in recreational activities for communities, particularly in big dance centres and music clubs. Amnesty International has also received reports of drug faction members giving money to individuals who approach them with specific requests, but not of more sustained social investment into communities.

³⁷ Op cit, Dowdney, L, 2003, p. 94.

³⁸ Op cit, ISER, 2005, p. 146.

³⁹ Op cit, Dowdney, L, 2003, and ISER, 2005. Around a quarter of the guns confiscated by police in Brazil are of external manufacture, with the USA, Spain, Argentina and Belgium being the main countries of origin. A recent statement by the head of Rio de Janeiro's police intelligence unit claimed that 80 per cent of arms in the *favelas* of Rio de Janeiro come from Paraguay, where controls on the sales of guns are much more relaxed.

⁴⁰ Op cit, ISER, 2005, p. 218.

In some communities, failure to comply with rules set out by drug factions is viciously punished. Television journalist Tim Lopes was discovered by members of a drug faction, in April 2002, filming secretly in a *favela* in Rio de Janeiro. He was reportedly tortured, then killed, and his body was burnt. While his case triggered a massive police hunt, and a prominent drug trafficker was convicted of the killing in May 2005, few cases receive such attention. The remains of several other bodies were found at the same place as Tim Lopes' body, a site commonly dubbed the "microwave" by local drug traffickers.

There are also reports of other forms of control exercised by drug factions over some *favelas*, such as curfews, informal "taxes" on gas and electricity, and involvement in the informal transport systems of *mototaxis* (motorcycle taxis) and *peruas* (mini-vans). According to Rio de Janeiro's *O Dia* newspaper, a transport cooperative in the São Gonçalo area of the city was forced to shorten one of its routes following demands by local drug traffickers. Drivers were warned not to enter the Trevo da Rota *favela* unless they paid R\$1,800 a month. The company decided to shorten the route by three kilometres to protect its drivers.⁴¹ Drug factions have also reportedly commandeered private homes as hideouts or to store guns and drugs during police raids.

The presence of criminal gangs and drug factions is a source of constant anxiety in these communities. Regular turf wars between drug factions, especially in Rio de Janeiro, mean that bystanders are often killed or injured in gun battles. Amnesty International delegates have seen for themselves heavily armed faction members on the streets during research visits to communities in Rio de Janeiro.

Yet, while criminal gangs and drug factions are a serious problem, their influence over the national and international trade in drugs and guns has been exaggerated, according to many analysts and officials. Many of these experts question the effectiveness of policing strategies that continue to focus on community based drug factions, while failing to target the large organized crime syndicates which boast high-level economic and political connections. The federal parliamentary inquiry into narco-trafficking in 2000 identified links between organized crime and federal and state legislative assemblies, as well as links with business. However, while state and federal governments have initiated steps into investigating organized crime more systematically, there is still a long way to go.

⁴¹ *O Dia*, "Tráfico muda itinerário", 8 June 2005.

Reinforcing drug factions

In November 2003, state officials told Amnesty International delegates who were visiting a pre-trial detention centre that they made all detainees join one of Rio de Janeiro's three main factions so as to maintain segregation within prisons. Even detainees who were not previously faction members are forced to join one, depending on where they live and which faction controls that area. Attempts to change this process and allow faction members to mingle led to a riot between opposing factions in the Casa de Custódia de Benfica, Rio de Janeiro, in which 30 inmates were killed in May 2004.

Political responses

Thousands of children and adolescents are unlawfully killed each year in socially excluded communities by criminals or the police, according to statistics of the ministry of health. Yet, there is little public indignation, and the government therefore continues to ignore the problem in its public security policy. Public surveys show that a significant percentage of the population accept the use of human rights violations as methods of policing. In May 2005, a survey by the Universidade Federal Fluminense found that 30 per cent of the population partially or fully accepted the concept that "*bandido bom é bandido morto*" [a good criminal is a dead criminal].⁴²

During the 2002 election for governor in the state of São Paulo, all three principal candidates campaigned for a more repressive public security policy. Media coverage of the elections included statements from certain candidates calling for the return of São Paulo's notoriously violent ROTA military police patrols to police the streets, accusing the prison system of offering conditions more like a luxurious motel than a prison as well as the use of images of a police shooting incident as electoral propaganda. As such, political parties consistently fail to address the needs of socially excluded communities perpetuating mechanisms that have led to profoundly discriminatory policing practices.

⁴² "Bandido bom é bandido morto, dizem 30 por cento dos brasileiros", Estado de São Paulo, 5 March 2005.

4. 'Criminalizing poverty': policing socially excluded communities

The police

Brazil's police officers have become so accustomed to being criticized that their ethos is generally defensive, and most react with extreme suspicion to proposals for reform. This has made it difficult for those working outside police forces to identify those with whom they can collaborate to reform the institutions. Yet reforms are urgently needed on a number of different fronts. These include work conditions, salaries and training, as well as managerial reform and oversight.

Police salaries are low. This has led to many police officers taking second jobs, often in the under-regulated private security industry. Amnesty International also reported in the past on how the shift system, which allows for second jobs, known as *bico*, disrupts the continuity and effectiveness of the police.⁴³

On a wider scale, public security is hampered by divisions and lack of coordination between the many bodies responsible for policing. Coordinating the work of two federal police forces, two state police forces, the municipal guards and the rest of the criminal justice system has been a central element of the government's proposed reform packages. The aim is to achieve more targeted and intelligence-based policing. Certain states have set up bodies to centralize the work of the various police forces and prosecutors' offices, and states such as São Paulo, Minas Gerais and Rio de Janeiro have improved their collection of statistics and analysis. However, effective cooperation remains a distant goal.

Policing in Brazil is a high risk occupation. In Rio de Janeiro, 52 police officers were killed on duty in 2004. Police often face heavily armed criminal gangs, and many are clearly inadequately prepared and resourced. Frustration with what they see as a lack of support has led to the creation of NGOs such as V!va Polícia and Voz do Silencio, which argue that the rights of police officers are ignored, especially by the human rights community.

According to a study of military police operations between 1993 and 1996 in Rio de Janeiro by Professor Ignacio Cano, of Rio de Janeiro State University, the death rate

⁴³ Amnesty International, *Brazil: They treat us like animals – torture and ill-treatment in Brazil*, (AI Index: AMR 19/022/2001), pg 12

for police was lower during operations in *favelas* than elsewhere.⁴⁴ Rio de Janeiro's State Secretary for Public Security told Amnesty International in April 2005 that the majority of police officers were not killed in *favelas* but rather in "cowardly attacks" in other parts of the city.

According to figures published by state authorities, most police are killed while off-duty, usually as a result of their work in private security industry, some due to involvement in criminal activity.

'They should bring security, but only bring fear'

"Povo da rua não chama a policia, tem medo."
Poor people don't call the police, they're afraid.

"Bate, bate, bate, depois diz desculpa, não foi você."
They beat you, beat you, beat you then apologise and say it wasn't you.

*"A pessoa é feito sentir-se um marginal, mesmo se não é."*⁴⁵
You're made to feel like a criminal, even if you're not.

During several visits to communities in São Paulo, Rio de Janeiro, Minas Gerais and Espírito Santo from 2002 to 2005, Amnesty International delegates met community leaders, residents, and members of human rights groups and other social movements. While in some communities residents were reluctant to speak, elsewhere patterns of police abuse were described with remarkable consistency. The complaints included disrespect, discrimination, violence, killing and corruption. Above all, residents said that they feared the police, who are supposed to protect them, more than they feared the criminal gangs which dominate and brutalize their communities.

The most frequent complaint about the police from *favela* residents is that they are treated with disrespect and contempt. Residents consistently reported discriminatory and racist language, with communities being described as "*cúmplice de bandido*" [accomplices of criminals] among other things. Other complaints included abusive and sometimes illegal stop and search procedures, especially against youths, and illegal detentions and abductions by police.

⁴⁴ Cano, Ignacio, *The use of lethal force by police in Rio de Janeiro*, ISER, 1997, p. 65. The study showed that one police officer was killed in every 75 actions with civilians in *favelas* and one was injured in every 12 actions. Outside *favelas* this number rose to one killed in every 35 actions and one injured in every 8 actions.

⁴⁵ Interviews with residents of several different *favelas* by Amnesty International, June 2005.

Persistent abuse and violence by elements within the police have created a culture of fear and revulsion within the *favelas*. More than once, Amnesty International was told of young children who had become so traumatized that they were unable to look at police officers. Some children reportedly cried or wet themselves on seeing one. Young boys described being beaten by the police as "normal". One community worker in São Paulo stated that the anger among young boys was such that they no longer feared the police and now stood up to them, which he felt would only result in more violence.

The following incident is unusual only in that it was reported. On the night of 4 April 2005, REJ, a 26-year-old Afro-Brazilian masters student at the federal university of Minas Gerais and his 21-year-old brother-in-law, MVC, were searched by police during a stop and search operation in a Rap club. They were reportedly taunted by police officers who ridiculed their "Afro" style hair. When REJ complained, he was reportedly pushed up against the wall, beaten and kicked while another police officer trained a gun at his head. He tried to identify the officers involved, but noted that two of them had removed their identification tags. He later reported the incident at a nearby police station.⁴⁶

A teenager from Parque Novo Mundo, a community in the north of São Paulo, told Amnesty International in July 2004 that police had stopped him on his way back from school. He said they made him get into a police van and then drove him out of the city on the main road. The van stopped, and they told him to get out and to run along the road without looking back. The boy said that he escaped into the undergrowth, and heard police shooting and shouting after him. After several hours he managed to get home. His mother told Amnesty International that such practices were routine.

Absence of police

Police stations and military police battalions are predominantly based outside *favelas*. According to official figures, the city of Bauru, a relatively wealthy city in the interior of the state of São Paulo, had 200 police officers for a population of around 100,000. The community of Jardim Ângela in the south of São Paulo, which includes a number of *favelas*, until recently had only 37 police officers for a population of 300,000, despite having an extremely high crime rate.⁴⁷

⁴⁶ This case was sent to Amnesty International from members of the program of affirmative action of the Federal University of Minas Gerais.

⁴⁷ As a result of collaborative work involving the church, community leaders and state officials, the crime rate in Jardim Ângela has significantly improved. The number of police officers in Jardim Ângela has recently been increased to 500, although these have not been either specifically trained or selected for working in such a social context. Many other socially excluded communities continue to have relatively little regular police presence.

The lack of a police presence within the community distances officers from the daily workings of the community, limits their ability to build links with residents, emphasizes the containment aspect of policing and reinforces the impression that police operations are effectively invasions into the community.

A shoot-out between police officers in a helicopter and suspected drug traffickers in Rocinha, a *favela* in the south of Rio de Janeiro, April 2004.
© Genna Naccache

Even when *favela* residents specifically ask for police protection, they do not often receive it. In February 2004, residents of Rocinha, Rio's largest *favela*, went to the state authorities warning them that they expected an invasion by a drug faction. Although extra police were deployed, they failed to provide extra security but instead intimidated and abused local residents.

During carnival, three youths – Liniker Ferreira Medeiros (17), Leandro Santos da Silva (16), and Jean Alexandre de Campos (13) – were shot and killed by the elite military police unit, BOPE. These killings generated revolt throughout the *favela* after the police claimed falsely that the three youths were drug traffickers. The police were then withdrawn from the community facilitating its invasion, in April, by a drug faction from Vidigal, a neighbouring *favela*. In a belated attempt to end the violent invasion, 1,000 police were called in. Gunfights took place for two days and a number of police, alleged traffickers and civilians died. Furthermore, Amnesty International has received consistent reports of increased criminal violence and human rights violations by the police since the invasion.

A military police officer wheels the body of a suspected drug dealer killed during a police operation in Rocinha, a *favela* in the south of Rio de Janeiro, April 2004. © Genna Naccache

On 27 June 2005 a 15 year-old boy was killed by members of the civil police's special operations unit, while on 4 July 2005 a 74 year old man was shot in the back while shopping during a reported shoot-out between drug traffickers and military police officers.

Punishment duties

Favelas and *periferias*⁴⁸ have become centres for corrupt or violent police who are transferred there as punishment from other areas. In November 2000, the *Corregedor* (head of the internal investigations unit) of São Paulo's civil police informed Amnesty

⁴⁸ *Periferias* is the Brazilian word for suburbs. In cities like São Paulo the word *periferia* has become synonymous with socially excluded communities as the poorer tend to live further out from the centre of the city. These areas tend to be a mix between lower-middle class neighbourhoods and *favelas*.

International with pride that violent or corrupt police were always transferred to the *periferia* of the city.

The Human Right Centre in Sapopemba, São Paulo, has stated:

“Another challenge is to break with the practice of transferring police accused of human rights violations to other areas of the city or the state. This means that rather than investigating the involvement of police officers swiftly and punishing them legally and definitively, the corporation of civil and military police adopts the strategy of transfers. This strategy, far from resolving the problem merely transfers it to another population, to another region. After a brief space of time these police officers are eventually returned to the area they were transferred from. Their return is always difficult, as they come back with more arrogance and a belief that they have greater legitimacy.”⁴⁹

Police invasions – ‘they come in shooting’ [‘eles entram atirando’]

Large-scale police incursions into poor communities, accompanied by extensive media coverage, are a mainstay of public security policy in certain cities. Such operations often occur in the wake of high profile crimes. In Rio de Janeiro, many high-profile operations have been mounted to arrest leading drug traffickers in the *favelas* surrounding the city.

In São Paulo, the civil police organized its largest ever police search operation after the kidnapping and murder of Celso Daniel, mayor of Santo André, a town on the *periferia* of the state capital. According to newspaper reports, in March 2002, 1,200 civil police officers entered the community of Pantanal in the south of the city. They reportedly searched 3,817 different locations, 2,210 people and 2,126 vehicles, all under one “collective search warrant”.⁵⁰

The phrase that was constantly repeated to Amnesty International delegates was “*eles entram atirando*”, “they come in shooting”. During visits into *favelas* with police

⁴⁹ From a report sent to Amnesty International in April 2005:

Outro desafio é romper com a prática de transferência dos policiais acusados de práticas de violações de direitos humanos para outras regiões da cidade ou do Estado. Isso quer dizer que no lugar de apurar com rapidez o envolvimento do policial e puni-lo de forma legal e definitiva, a Corporação da Polícias Civil e Militar se vale da estratégia da transferência. Essa estratégia ao contrário de resolver o problema apenas o transfere para outra população, para outra região. Em curtos espaços de tempo esses policiais acabam retornando aos locais de onde foram transferidos. O retorno é sempre mais complicado, pois retornam com mais arrogância e exibindo legitimidade.

⁵⁰ *Folha de São Paulo*, “Polícia Civil faz maior blitz da sua história”, 8 May 2002.

officers in Rio de Janeiro and São Paulo, Amnesty International delegates noted that police always carried their guns un-holstered and ready (see pg 22).

For three days in April 2003, civil and military police carried out a large scale operation in Sapopemba, accompanied by TV camera crews. Numerous residents subsequently complained of intimidation and abuse.

On the evening of 23 April, police questioned Jandira de Oliveira Azevedo and Leoclécio Zubem Azevedo and told them to leave their house for the evening. The following morning, civil police officers entered their house and claimed to have found evidence of a kidnappers' hideout in a room the couple had rented out. They reportedly beat the couple in front of their children and accused them of belonging to a kidnapping gang.

The Azevedos were then handcuffed and deposited in the back of a police vehicle, where a police chief invited reporters to interview them. Images broadcast across Brazil show the police chief opening the vehicle door and announcing that these people were responsible for a kidnapping.

Jandira and Leoclécio Azevedo were taken to a police station where they were ill-treated, threatened and not allowed to see their lawyers. Jandira was verbally abused and placed in a cell with another man. The three were reportedly held in the dark for eight hours and a canister of what appeared to be pepper spray was squirted into their cells. At 22.30, they were finally presented to the commanding police officer, asked some questions and then released.

On the same afternoon, 23 April, Geni Conceição Laurindo was stopped by civil police and asked where her two sons were. The officers and their chief then entered her house without a warrant, held a gun to the head of her daughter, Sueli Araújo Laurindo, and took away family documents. Camera crews filmed this illegal search. In interviews with reporters, the officers said that the entire family were kidnappers. The police did not make any arrests nor did they file any charges. However, as a result of the media coverage, Sueli later lost her job.

Jandira and Leoclécio Azevedo are still facing charges of kidnapping, although no evidence against them has been produced. As a result of reporting the human rights violations they suffered, the couple have also suffered extensive threats and have been included in the witness protection program, PROVITA. The police officers charged with their torture and abuse are presently on active duty and their case is being processed *in camera* (behind closed doors). Amnesty International was recently informed that judicial proceedings against the police, which had stagnated in the courts, were reopened following an application by the Sapopemba human rights centre for the case to be transferred to federal jurisdiction, following recent legal reforms allowing for this.

Mass raids are such a significant part of Brazil's policing strategy that elite troops from Rio de Janeiro's military police have reportedly set up a permanent training camp in the Tavares Bastos *favela* to train for such operations, disrupting the life of the community. The federal government's elite National Force is also reportedly training there.

The impact of these types of police operations affects society as a whole, not just socially excluded communities. Many innocent bystanders have been killed in shoot-outs during police operations or between members of drug factions. In Rio de Janeiro, the proximity of certain middle-class buildings to *favelas* makes them vulnerable to stray bullets [*bala perdida*], raising fears among middle class residents, and the belief that police operations are occurring within the context of a "war" has become a dangerously accepted wisdom.

Indiscriminate punishment

During mass raids on favelas, police rarely have warrants to search businesses, houses or individuals. Brazilian judges, in line with the criteria of the *Superior Tribunal de Justiça* (STJ), federal appeals court, have upheld this practice by a peculiar interpretation of the law on drugs trafficking, which is defined as a "permanent crime" [*crime permanente*] meaning that any arrest can be interpreted as "*in flagrante*".⁵¹ As such, this has increased the practice of indiscriminate and abusive searches, targeting all members of socially excluded communities, as well as the practice of human rights violations as such operations lack consistent judicial oversight.

In certain high profile police operations, collective search and arrest warrants [*mandatos de busca e apreensão coletivos*] are used. Contrary to Brazilian law, these do not specify individual addresses or names but rather cover whole communities.⁵² The use of these collective warrants, issued by some judges, reveals the prejudice

⁵¹ A judicial decision of the Federal Appeals Court:

Não resta evidenciada a nulidade da busca e apreensão domiciliar, se os autos revelam razões suficientes para a suspeita da prática de crimes, ainda mais em se tratando de crime de tráfico de entorpecentes, cuja natureza é permanente, tornando desnecessária, inclusive, a expedição de mandado de busca e apreensão para a realização da diligência. (STJ – RHC 200401531231 – (16792 GO) – 5ª T. – Rel. Min. Gilson Dipp – DJU 20.06.2005 – p. 00295)

[There is no evidence of the invalidity of the house search and arrest, if the records show sufficient reason to suspect the practice of crimes, even more so when dealing with drug trafficking, which is deemed permanent, further making it unnecessary to emit a search and arrest warrant for the inquiry.]

⁵² Under articles 240 and 250 of the Code of Criminal Process [*Código de Processo Penal*], a search warrant entails a "residence or personal" search, and should specify, "as precisely as possible the house where the search will be conducted, or in the case of an individual search, the name of the person who is to be searched or signs that identify him," in addition to "mentioning the motives and ends of the search."

within the criminal justice system – elements within the police and judiciary effectively criminalize whole communities in one legal document.

In a report on policing in Rio de Janeiro, the NGO Global Justice describes the practice of collective warrants:

“the specificity and purpose of the warrant has been distorted by making general references, commonly targeted against *the entire community*- which essentially means that any resident is considered a suspect by the warrant. The general warrants are only requested and granted in accordance with social stigmatization, the construction of the “other”, the basis of criminalization of poverty. It is impossible to imagine such warrants being executed in the luxurious condominiums, of Barra da Tijuca- a middle to upper class neighbourhood that has long been a drug trafficking site for the elite.”⁵³

Recently, police have reportedly not even used collective warrants, but have either waved undisclosed bits of paper in the direction of residents or used nothing at all.

A few hours after a visit by Amnesty International, police raided Parque Novo Mundo, a community in the north of São Paulo. At 2 am on 27 July 2004, around 20 uniformed military police officers from the 5th Company of the 5th Battalion invaded a housing block, forcing their way into nine apartments and reportedly ransacking them.

Police detained a 15 year-old girl, who they allegedly forced to strip and to squat on her haunches 25 times while naked. A female police officer reportedly broke a broom handle over the girl's head. The girl was later released following pressure from local human rights groups.

The police claimed to have a search warrant, but residents said they were not allowed to see it. They also reported that police officers had removed or covered the name tags on their uniforms, and that the police vehicles were parked some distance away, making the identification of number plates impossible. Amnesty International's request to São Paulo's military police command for information about the incident and a copy of the warrant received no reply.

In one *favela*, residents told Amnesty International that they always kept to hand receipts for all the goods in their house, so that they could prove ownership of all their goods during police raids.

⁵³ Global Justice, Op cit, 2004, p. 30.

Reports from residents of Jardim Pantanal in São Paulo given to the Centro Santo Dias de Direitos Humanos, a human rights NGO working on police violence, reflect the irregular and abusive way that police confront residents:

- "I've been beaten many times by the military police. Each time they see me on the street at night and by day, they stop me and say "you son of a bitch we're going to get you one of these days, we mean business"...Both the civil and military police have invaded my house many times."⁵⁴
- "They invade my back yard without asking and when I look they're already inside the house. I have lived [in the community] for eight years. They always want to see the documents for the car. They entered without warrants a year ago. Each time they enter the community they peer into your house."⁵⁵
- "I went to the market and when I returned there was a mass of cars [outside Maria's house]. Four male police officers and one female entered the back yard. Maria's two sons were alone at home as she had gone to the market. When she arrived Maria asked them what they were doing in her yard...they had already been inside her house and turned it upside-down. She asked if they could do this and they told her it was their job."⁵⁶
- "One month ago, on a week-end, I'm returning from the dance [when] two military police officers confront me. I was on a motorbike with a friend... They ordered us to stop. [They said] 'Put your hands up you bastards, this isn't a time to be out on the street.' They asked for my documents, saw that everything was all right with them and then they ordered us to leave without looking back at them, and if they caught us out again late at night cruising on the motorbike they would fabricate charges against us, as in this place there are only thieves and drug-

⁵⁴ "Varias vezes já apanhei dos PM. Toda vez que eles me encontram na rua a noite e de dia eles me param e falam, "seu fila da puta nós vamos te pegar qualquer hora, nós é fera"... Varias vezes já invadiram minha casa tanto civil quanto a PM." Report from resident presented to Centro Santo Dias de Direitos Humanos.

⁵⁵ "Eles invadem o meu quintal sem pedir, quando eu vejo já estão dentro de casa. Moro [na comunidade] a 8 anos. Sempre querem ver os documentos do carro. Entraram sem mandato para olhar minha casa a um ano atrás. Todas as vezes que sobem no morro ficam olhando para dentro da sua casa." Report from resident presented to Centro Santo Dias de Direitos Humanos.

⁵⁶ "Fui para feira quando cheguei estava aquele monte de viatura [na casa da Maria]. 4 policial e 1 mulher policial entraram no quintal sendo que os dois filhos da Maria estavam sozinhos enquanto ela foi à feira. Chegando em casa Maria perguntou para eles o que eles estavam fazendo dentro do seu quintal... eles já tinham entrado dentro de sua [casa] revirando tudo...Ela perguntou se eles podiam fazer isso, e eles disseram que era o serviço deles." Report from resident presented to Centro Santo Dias de Direitos Humanos.

traffickers. In our panic we didn't even get the chance to take down the details of their car."⁵⁷

This kind of policing has had the effect of turning communities against the police:

"...residents of these communities often say they prefer the criminals, because these at least can control their subordinates, they do not steal within the community and they can distinguish between those who are involved with crime and those who are not. Now the police treat all poor black people as suspects, or worse as non-citizens, to whom the laws of the country do not apply – an attitude very different to that which is displayed by the very same police in rich neighbourhoods..."⁵⁸

In October 2004, a long-standing feud between rival drug gangs in the two neighbouring communities of Vigário Geral and Parada de Lucas in the north of Rio de Janeiro flared up again. On 2 October, members of the drug faction which controls Parada de Lucas invaded Vigário Geral. Much of the community was terrified and decided to abandon their homes. The community's fear was heightened given the experience of the previous such invasion by the same drug faction, in 2002. At that time, eight of the traffickers from the faction controlling Vigário Geral were killed. No residents were hurt during the invasion, although they were threatened and their houses were ransacked. Residents who remained felt unable to leave their houses.

In the days that followed, the state authorities informed the media that they had retaken the community, which was now safe. However, according to information received by Amnesty International, members of Rio de Janeiro's military police limited themselves to brief sorties into the *favela* to create the appearance of action.

Many of the residents who had left the community were only able to take shelter in crèche in a *favela* in Jardim América. Others sought refuge with relatives. Schools suffered a low turn out. Many heads of families subsequently lost their jobs.

On 6 October, Amnesty International publicly urged the authorities to intervene to protect the

⁵⁷ "[A] um mês, final de semana, estou voltando da Balada [quando] 2 PM me encararam. Eu estava de moto com um amigo, que não quer se identificar. Mandaram nós pararmos. [Disseram], "Mãos na cabeça seus canalhas, essa não é hora de estar na rua." Pediram documentos, viram que esta tudo certo e eles mandaram que nós fossemos embora sem olhar para trás, e se pegasse nós de novo de madrugada dando corre de moto iriam forjar qualquer flagrante, pois desse lugar só tem ladrão e traficante. No desespero não conseguimos adotar o nome da Viatura." report submitted by resident to Centro Santo Dias de Direitos Humanos.

⁵⁸ Lemgruber, Musumeci, Cano, *Quem Vigia os Vigias?: Um estudo sobre controle externo da polícia no Brasil*, 2003, Record, p. 47.

moradores dessas áreas chegam a dizer que preferem os bandidos, pois estes ao menos controlam seus subordinados, não roubam dentro da comunidade e sabem distinguir quem está ou não envolvido com o crime. Já a polícia trata todas as pessoas pobres e negras como suspeitas ou, pior, como não-cidadãos, aos quais não se aplicam as leis do país – atitude muito diferente da que a mesma polícia exhibe nos bairros ricos da cidade...

⁵⁹ *O Dia*, "Fronteira imposta pelo crime", 8 May 2005.

community. Members of the *Batalhão de Operações Especiais* (BOPE), special operations battalion of the military police, then re-entered Vigário Geral and reclaimed it for the community.

Today, Vigário Geral is patrolled by members of the military police, and there have been no recent reports of conflict between the factions. However, according to a newspaper article, since this incident, drug traffickers from Parada de Lucas have prohibited residents from entering the neighbouring community, which houses the only local health centre.⁵⁹

At five o'clock in the morning of 28 August 2005, members of São Paulo's military police invaded Jardim Elba, a favela in Sapopemba in the east of São Paulo. According to reports, the police entered by helicopter, cars and on horse-back. Members of social movements from Sapopemba described the scene in a public statement:

There were many police and many cars. It was as if there was a war. Police invading our "favela" from top to bottom and from bottom to top. The officers who walked up were like army patrols, while others descended by ropes from helicopters, occupying the whole favela. The streets were blocked, as the military [police] on horseback blocked all pedestrian access.⁶⁰

According to press reports, the authorities later informed community leaders that the operation, codenamed **Saturation**, was aimed at combating drug trafficking in the community and ensuring closer links between residents and the police. A press statement on São Paulo's state secretariat of public security's web-site stated that police had stopped and questioned 4,797 people, while they had searched 474 cars, 401 motorcycles and 210 business establishments. It also stated that the authorities were also providing dental treatment for residents as part of the operation.

Youths undergoing a random search by members of the military police's shock troops in the Santa Madalena *favela*, in Sapopemba east of São Paulo. Members of civil society in Sapopemba have consistently reported violent and discriminatory treatment at the hands of the police in operations similar to this. © Private

However, Amnesty International has been informed by Sapopemba's social movements, that as part of this operation numerous discriminatory acts and human rights violations occurred, including: entering houses without warrants; abusive and violent searches of women; and the confiscation or discarding of residents' packed lunches.

Amnesty International was also informed that a five year old girl had her leg broken after being reportedly trodden on by a military police officer. A similar operation was initiated in the Tamarutaca favela, in the town of Diadema. Human rights activists from Sapopemba

⁶⁰ Public statement signed by numerous non-governmental organizations and social groups working in Sapopemba of 14 September 2005.

expressed their concern, to Amnesty International, at the abusive and discriminatory methods of security being imposed on socially excluded communities which failed to address the needs of its residents.

Further research by Amnesty International found that several state governments had initiated similar police operations under the codename Saturation. These included the states of Maranhão, Parana, Ceará and Rio Grande do Norte. Professor Luís Eduardo Soares, former national secretary for public security and one of the main authors of the federal government's national public security plan, recently stated to Amnesty International that such police operations were:

“...the old practice of sporadic invasions, which produce nothing but tragedies and a lot of news for the media, satiating the demand for authoritarian order that the dissemination of fear tends to provoke in public opinion. This procedure is not effective in any significant way, other than being counterproductive, increasing the level of risk and deepening the chasm between the favela and the “protected city”. As the violent and discriminatory experiences that we know have shown, these [operations] are accompanied by brutal and ethnically [discriminatory] searches, merely reproduced the mechanisms of social inequality and increase the insecurity of the poor.”⁶¹

The discrimination and stigmatization that have marked the policing of socially excluded communities, as well as the negligence of the state to offer other forms of protection, have made them increasingly vulnerable to higher levels of crime, especially violent crime. This in turn has been exacerbated by the persistently high levels of human rights violations perpetrated by members of the police against residents, especially the hundreds if not thousands of killings which take place every year.

⁶¹ From e-mail sent by Prof. Luís Eduardo Soares to Amnesty International on 22 September 2005

...as velhas práticas das incursões eventuais, que não produzem senão tragédias e muita notícia para a mídia, saciando a demanda por ordem autoritária que a disseminação do medo tende a provocar, na opinião pública. Esse procedimento não é eficaz em nenhum sentido importante, além de ser contraproducente, gerar risco e aprofundar o abismo que separa favela e a "cidade protegida". Como tende a ser a experiência violenta e discriminatória que conhecemos, acompanha de revistas brutais e etnicamente [discriminatórias], apenas reproduz a máquina das desigualdades sociais e traz ainda mais insegurança para os mais pobres.

5. 'If the police are more active, they will kill more people'

Excessive use of force by the police in *favelas* is rarely reported to the authorities, even when people are killed. Residents are afraid, face great difficulties if they try to denounce these crimes, and have virtually no hope that the perpetrators will be brought to justice.

Nevertheless, recognition of the scale of the problem has increased in the wake of visits to Brazil by the UN Special Rapporteurs on torture and on extrajudicial executions over the last four years, and given the extensive documentation of cases by local and international NGOs. The UN visits highlighted the fact that extrajudicial executions, excessive use of force and torture have apparently become regular policing tools among certain police forces in Brazil.

The state governments of Rio de Janeiro and São Paulo publish figures for police killings under the heading of *resistência seguida de morte* (resistance followed by death) or *autos de resistência* (records of resistance). Neither the term *resistência seguida de morte* or *autos de resistência* have legal standing in Brazil, but this allows police officers to register fatal incidents as a result of conflict, omitting important details. By systematically labelling the victims of police killings as aggressors, few of these cases are effectively and independently investigated. State governments have used these figures as a sign of police efficiency, ignoring the fact that many of those killed had no criminal record, were unarmed, were black or mixed race, and were shot in the back. The predominance of unarmed poor, black youths among the victims has been shown in studies by São Paulo's police ombudsman, as well as by the Rio de Janeiro based research institute ISER.⁶²

Amnesty International met the State Secretary of Public Security for São Paulo, Dr Saulo de Castro Abreu, in June 2003. Although Dr de Castro Abreu expressed concern at the increased number of police killings, he attributed them to the fact that there were more and better armed police on active duty and the increase in police operations.⁶³ In November 2003, the governor of Rio de Janeiro and the then State Secretary of Public Security, Rosinha Garotinho and Anthony Garotinho, similarly informed an Amnesty International delegation that the increase in killings by police

⁶² Cano, Ignacio, Op cit, ISER, 1997; and Ouvidoria da Polícia do Estado de São Paulo, *Resistência seguida de morte: apuração dos limites do uso da força letal no âmbito da Polícia Judiciária, do Ministério Público e do Poder Judiciário – uma abordagem processual*, 2002.

⁶³ Amnesty International interview with Dr Saulo de Castro Abreu, 24 June 2003.

was the result of increased and improved police operations.⁶⁴ In April 2005, Amnesty International was informed by Marcelo Itagiba, State Secretary of Public Security of Rio de Janeiro, that "*a partir que a policia trabalha mais mata mais*", "if the police are more active they will kill more people".

Dr Itagiba and other state and federal government representatives have stressed that human rights violations cannot be seen in any way as government policy. However, there appears to be an assumption, especially among state governments, that using lethal force is an accepted reality of policing in Brazil today, and a measure of police effectiveness. Dr Itagiba said that the 1,195 registered police killings from 2003 could not be described as civilians killed by the police, but rather should be described as "police confrontations with criminals which unfortunately end in *autos de resistência*."⁶⁵

Two studies on lethal use of force and *autos de resistência* show that many more people are killed by police than are injured by them. One was carried out by Ignacio Cano on Rio de Janeiro and one by the São Paulo police ombudsman's office. Ignacio Cano's report states:

"The ratio between deaths and injuries among victims of police action shows several deaths per injury. As discussed above, this ratio, known as the "lethality index" suggests that in many cases, police intend to kill rather than arrest."⁶⁶

Ignácio Cano also states that police kill more than 10 times as many people as the number of police officers killed.⁶⁷ This ratio is even higher now in Rio de Janeiro and São Paulo,⁶⁸ further indicating a pattern of excessive use of force.

Police in the states of Rio de Janeiro and Espírito Santo have begun to use assault rifles in routine operations in urban centres. This has dramatically increased the threat

⁶⁴ Amnesty International meeting with Sra. Rosinha Garotinho and Sr Anthony Garotinho, 11 November 2003.

⁶⁵ Amnesty International interview with Dr Marcelo Itagiba, 6 April 2005.

⁶⁶ Justiça Global, *Execuções Sumárias no Brasil: 1997 – 2003*, 2002, p.16.

...a razão entre mortos e feridos das vítimas das ações policiais mostra que há vários mortos para cada ferido provocado pela polícia. Esta razão, denominada índice de letalidade, evidencia que em muitos casos há uma intenção de matar e não de prender o oponente.

⁶⁷ Ibid p. 16.

⁶⁸ According to figures quoted by the relevant state secretariat's of public security in 2003, in Rio de Janeiro, 50 police officers were killed to the 1,195 civilians killed in alleged situations of conflict, while in São Paulo 33 police were killed while on duty compared to 915 civilians killed by police.

to residents, especially in densely populated *favelas*. Most police officers only receive extremely limited training in the use of these firearms.⁶⁹

Police and guns

Until recently, all police were provided with .38 revolvers and many also carried 9mm pistols. In some states, military and civil police were allowed to carry their own private guns while on duty. A military police officer in São Paulo told an Amnesty International delegate in 2004 that he preferred carrying his own gun as it had better "stopping power". Until recently, all police forces also used weapons that had been captured or confiscated.

Under new provisions of the federal government's 2003 Disarmament Statute (see Chapter 10 pg 46), all police are to be equipped with standard side arms (.40 Taurus pistols) and standard long arms (.40 Taurus carbines). Sub-machine guns will be used by special operations teams.⁷⁰ An official at the National Secretariat for Public Security told Amnesty International that this would facilitate training, standardize procedure and facilitate interchange between officers in situations of high risk, allowing ammunition to be shared for example. The Statute also calls for the destruction of all confiscated or captured weapons by the army within 48 hours or once they are no longer needed as evidence.

Amnesty International has received many reports of police carrying unmarked weapons and planting them at scenes of shootings. Poor records of police firearms have hindered investigations into police shootings; in several major police killing cases officers have been absolved as forensic investigators were unable to identify which police officer was responsible for firing which gun.

The rate of police killings matches very closely the state government's line on public security. Between 1995 and 1998, the government of Marcelo Alencar in Rio de Janeiro introduced financial incentives for police officers with the highest numbers of killings, dubbed the "*lei do faroeste*" (wild west law). There was a rapid increase in the number of deaths of both police and civilians in alleged confrontations with the police. Figures for killings after "*autos de resistência*" rose from 155 in 1993 to 358 in 1995. In his 1997 study on the use of lethal force by police in Rio de Janeiro, Ignacio Cano shows that the increase in killings is particularly marked in *favelas*.⁷¹

Following a change of state government in 1999, the incentives were withdrawn and killings by police after "*autos de resistência*" fell to 289 in 1999. However, this figure rose rapidly over the subsequent years, peaking at 1,195 in 2003.⁷² A proposal to

⁶⁹ Op cit, ISER, 2005, p. 132.

⁷⁰ Op cit, ISER, 2005, p. 132.

⁷¹ Cano, Ignacio, *The Use of Lethal Force by Police in Rio de Janeiro*, ISER, 1997, p. 44.

⁷² Figures cited from Rio de Janeiro's state secretariat of public security. See: www.ssp.rj.gov.br

reform the police and introduce human rights-based policing was effectively abandoned by the government and its public line increasingly promoted tough policing, under the label *Pressão Máxima*, Maximum Pressure.

Targeting the underprivileged

Police shooting incidents are often committed in questionable circumstances. There is extensive evidence that killings described as following "*autos de resistência*" do not always occur in situations of confrontation; while the victims almost always come from socially excluded communities (see maps in appendix 2).

Studies by ISER in Rio de Janeiro and by the police ombudsman's office in São Paulo have shown that the majority of those killed by police are shot from behind, largely in the head.⁷³ Many show signs of further injuries such as beatings, and the majority are black or mixed race. In most of the cases studied, the victims did not have criminal records. In São Paulo, the study showed that most fatal shootings by police were reported as a crime committed by the victim (robbery, resisting arrest etc). This meant they were not recorded or investigated as possible extrajudicial executions.

Cover-ups

Relatives of victims, human rights activists, prosecutors, academics and politicians have consistently described a pattern of cover-up and intimidation which follows police shootings. These allegations include police tampering with the scene of the crime – often planting an unmarked gun on the victim, moving victims' bodies while pretending to save them, removing cartridges and other evidence – and threatening witnesses.⁷⁴

It is extremely difficult to report these killings. Relatives of victims rarely approach the police to report killings because they are afraid. Bodies such as the police *ouvidoria* (ombudsman's offices) in states where they exist, *corregedoria* (internal police investigations units), and *ministerio público* (public prosecutor's offices) are generally unknown, discredited or far away and intimidating. Amnesty International has often been told of family members delaying reporting deaths as they seek to prove that the victim was "innocent" or was a *trabalhador*, believing they had to prove the innocence of a victim who had been extra-judicially executed.

⁷³ See: Ouvidoria da Policia do Estado de São Paulo *Relatório Anual de Apresentação de Contas 2001*, pg 85 and Cano, Ignacio *The Use of Lethal Force by Police in Rio de Janeiro* ISER, 1997 pgs 68-69.

⁷⁴ See: Amnesty International, *Rio de Janeiro 2003: Candelária and Vigário Geral 10 years on*, (AI Index: AMR 19/015/2003).

Those few cases that are reported are rarely investigated according to internationally recognized practices and standards. Forensic investigation units are linked either to the civil police or to the State Secretary of Public Security, and the independence of their investigations is constantly questioned. In certain high-profile cases, their evidence has later been successfully challenged by independent investigators.

On 27 September 2004, members of the *Coordenadoria de Recursos Especiais* (CORE), Coordination of Special Resources, an elite civil police unit, were called to an operation in the Morro da Providência, a *favela* in Rio de Janeiro. Shots had been fired at one of their helicopters. CORE officers in the helicopter directed officers on the ground to a house in the *favela*. A photographer from *O Dia* newspaper photographed CORE officers aiming their guns at a youth and a young man lying unarmed on the floor. Subsequent photographs showed CORE officers carrying the bodies of the two away from the *favela*.⁷⁵ In the face of strong evidence to the contrary, including independent forensic examinations, the prosecutor decided to archive the case against the police officers of possible extra-judicial executions on the grounds that the police were acting in legitimate self-defence. This decision was overturned by the head of the state public prosecution service [*procurador geral de justiça*], but was later upheld by the state supreme court. The public prosecution service has promised to appeal against this decision to the *supremo tribunal federal* (STF), federal supreme court.

Civil police officers of the special CORE unit were photographed by the *O Dia* newspaper detaining two suspected drug traffickers in the Morro da Providência *favela* in Rio de Janeiro, in September 2004, and subsequently carrying their dead bodies away from the scene. © *O Dia*

Impunity

Police officers are rarely tried in connection with fatal shootings, especially those involving *favela* dwellers. Cases usually only come to trial if witnesses or family members apply pressure to the authorities, and by doing so they are putting themselves at risk. There are persistent reports of witnesses, family members, lawyers and human rights activists receiving threats as a result of reporting a case. Over the years, Amnesty International has documented cases of witnesses being arbitrarily detained and tortured to make them withdraw their testimony. It has also documented killings and attempted killings of witnesses, and has acted on hundreds of cases of threats and intimidating behaviour.⁷⁶

⁷⁵ Justiça Global (October 2004) "Relatório Rio: Violência Policial e Insegurança Pública", Rio de Janeiro, p. 59

⁷⁶ Brazil's witness protection system, PROVITA, is run by NGOs with joint federal/state funding, but at present only exists in a few states. Amnesty International has consistently received reports that the system is vulnerable due to inconsistent and inadequate funding. Furthermore, the system exists to protect evidence, and as such it only protects witnesses with evidence to present in court, excluding relatives of victims and others following prosecutions.

In many if not most cases, police officers involved in shooting incidents are not withdrawn from active duty and they often continue to work in the area where the killings occurred. Amnesty International has received many reports of threats being received from officers being investigated in shooting incidents or their colleagues.

Five youths, including a 13-year-old boy, were reportedly extra judicially executed on 6 January 2004, in the *favela* of Cajú in the north of Rio de Janeiro. One surviving witness and several family members informed the police that two policemen had rushed, shooting, towards the five while they were sitting in a bar. The boys tried to identify themselves to no avail. On 7 January, their bodies were found in a mud pit, located behind a garage near the community. A police investigation was opened into the killing. Shortly after reporting what had taken place the one surviving witness, who had himself been shot, left the community with his family saying they feared the police.⁷⁷

In April 2005, Amnesty International met Elizabete Maria de Souza, a mother of three, and sister of the dead 13-year-old. She said that she was unable to sleep at night as she feared for the safety of her three daughters, only resting for brief periods in the morning before going to work. She told Amnesty International delegates that police patrols regularly passed her house slowing down as they approached. She further said that she was now looking for a means to take her daughters away from the community so that they could be safe.

Since the death of her brother Elizabete has joined the *Rede de Comunidades e Movimentos Contra a Violência*, Network Against Violence, in Rio de Janeiro campaigning against human rights violations by the police. The *Rede Contra a Violência*, made up of relatives of victims of police violence, community activists and other human rights defenders has initiated a consolidated campaign against the ever worsening levels of human rights violations at the hands of police officers in the socially excluded communities of Rio de Janeiro. The *Rede Contra a Violência* included relatives of the four boys killed in the community of Borel in April 2004 by members of the military police.⁷⁸

The levels of violations and the systemic impunity that surrounds them are so entrenched in Brazil that often many of these cases go unnoticed or are quickly forgotten. It is when large-scale violations occur that authorities and public alike are shaken by the reality of the abuse suffered by such a large part of the population.

⁷⁷ Global Justice, *Rio Report: Police Violence and Public Insecurity*, 2004, p. 34.

⁷⁸ See: Amnesty International *Brazil: Rio de Janeiro 2003 – Candelário and Vigário Geral 10 years on* AMR 19/015/2003, August 2003, p. 24.

6. Corruption, criminal activity and 'death squads'

Corruption and criminal activity within police forces affect the human rights of all Brazilians, especially those from poorer sections of society. The failure of the executive and judicial authorities to investigate and punish state officials responsible for human rights violations, including torture and extrajudicial executions, has allowed sections of the police to misuse their powers for their own ends, sometimes with powerful business, political and judicial support.

Corruption

Amnesty International has received persistent reports of police officers involved in corrupt practices from residents of *favelas*, human rights groups, academics and even members of the authorities. *Favela* residents complained to Amnesty International that some police officers demand bribes, extort money from members of the community on a regular basis and steal from individuals or houses. In July 2004, during a visit to the communities of Morro do Papagaio and Santa Lúcia in Belo Horizonte, Amnesty International was informed of a group of police led by a corporal who persistently entered houses without the required warrants and stole from them. For example, one resident told Amnesty International that his house had been entered at three o'clock in the morning on 6 July by military police officers, from the 22nd battalion without the necessary warrants. He said the police officers ransacked his house and then took personal belongings of his later demanding R\$500 for their return. In several communities in Rio de Janeiro Amnesty International was told that military police officers regularly stand near the entrance to the community and demand money from those entering. Sometimes they claim they are imposing on-the-spot fines, sometimes they make no pretence that this is other than extortion. In São Paulo, Amnesty International was told by staff from a local *Centro de Defesa da Criança e do Adolescente* (CEDECA), Centre for the Protection of the Child and the Adolescent, that they had received increasing reports of cases where military police officers had forced young girls and boys to have sex with them. Few of these cases were reported to the authorities out of fear and shame.

"Comando Azul" is daubed on the walls of a *favela* in Maré, a conglomeration of many *favelas* in Rio de Janeiro. The reference is to the police, in a play on the name of one of the biggest drug gangs in Brazil – the "Comando Vermelho". Above is scrawled "Amigos dos amigos", [Friends of Friends], on of the city's other major drug factions. While it is not clear who produced this graffiti, Amnesty has been informed that both the *favela* residents and members of the police themselves use the term "Comando Azul". For *favela* residents, it is used to mock the police; for the police, it is a means of intimidating the population.

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Favela residents, human rights groups, academic experts as well as some members of the authorities have informed Amnesty International of other corrupt practices

performed by certain police officers. These include alleged cases of police officers forging charges so as to blackmail criminals and former convicts into committing crimes on their behalf. Another practice reported to Amnesty International by the same sources and cited in the press relates to police officers taking bribes to release detainees. As described by one community resident:

"The problem of the police in the communities is that they enter, but they don't enter to do their duty, fulfil their responsibilities to the citizen. They enter to [frame] workers, to arrest drug-traffickers, sure, but to see if they can make some money out of it. Then they release them half an hour later. See how much they can get, free them and pretend nothing happened."⁷⁹

Sérgio Rezende de Souza of the community of Jardim Pantanal in São Paulo started a fishing business following his release from jail and was well known in the community for trying to turn his life around. According to information from the Centro Santo Dias de Direitos Humanos, he began to receive demands for money from members of the civil police, who threatened to arrest him on false charges if he did not pay them regular amounts. At the end of 2003, Sérgio was forced to sell his herd of pigs to pay R\$4,000 to police officers.

On 15 October 2004, Sérgio was detained on a variety of charges including drug trafficking and theft of a container lorry. However, according to witnesses, military police officers planted his documents in the stolen truck and civil police officers forced the victim of the robbery to identify Sérgio. On 16 October, residents protested outside the local civil police station, near the military police base. According to residents, they were set upon by military police who reportedly threw fire extinguishers at them, aimed guns at them and beat them, injuring a number of people. Sérgio was released from prison but the charges are still pending.

The Centro Santo Dias de Direitos Humanos has reported cases from various communities of police detaining people on false charges. Police officers then reportedly requested large sums of money for their release. Those who were unable to pay these sums were reportedly told the alternative was to commit crimes for the police.

⁷⁹ Lemgruber, Musumeci, Cano, *Quem Vigia os Vigias?: Um estudo sobre controle externo da polícia no Brasil*, 2003, Record, p. 46.

O problema da polícia dentro das comunidades é que eles hoje em dia entram, mas não entram para fazer seu dever, do compromisso deles, para com o cidadão. Eles entram assim, pra [forjar] trabalhadores, para prender traficantes, sim, mas para ver se arrumam um dinheiro em cima daquilo ali. E depois solta, dali a meia hora. Vê qual a quantia que eles querem, libera e fingem que nem aconteceu nada.

The human rights centre in Sapopemba has recorded three cases of people detained on apparently false charges between December 2004 and March 2005. All three were accused of drug trafficking and are currently held in detention, although police being investigated for homicide remain at liberty, underlining the different treatment shown by the judiciary to police officers suspected of human rights violations.

While researching the incidence of torture in Brazil, Amnesty International received consistent complaints that detainees held by the civil police, in local police stations, had been forced to pay money to avoid being tortured often with the intention of obtaining confessions to several crimes.⁸⁰ Police also reportedly demanded money to pay for food left by relatives, or to be put into one cell rather than another. Many prisoners who had been sentenced were reportedly told they would have to pay to be transferred into the prison system from local police stations, where they were held contrary to the *lei de execução penal*, or the law governing penal sentences.

Corruption within Brazil's police forces is pervasive. In a study on criminality within police in the state of Bahia, Professor Ana Teresa Lemos-Nelson, of the University of Pernambuco, concludes:

“...the police have institutionalized informal and illegal law through consistent enforcement to protect their illegal routines. The continuation of this procedure is dependent on the continuation of the institution's isolation from the other powers and society. However, this continued isolation has strong detrimental effects on the morale of the police officers and on the respect and compliance they will not be able to command from society.”⁸¹

Police corruption corrodes the relationship between Brazilians and those who are supposed to protect their rights. This is most extreme in the poorest sectors of society, which endure individual acts of corruption on a regular basis. They also suffer increased levels of crime within their communities, due both to the lower levels of police protection from criminal gangs and drug factions and to higher levels of crime committed by the police. Unsurprisingly, they have no faith in state institutions that appear at best powerless or disinterested, at worst complicit.

During Amnesty International's meetings with them, Brazilian state officials have repeatedly stressed that they do not, in any way, tolerate corruption, especially in the police. When Amnesty International delegates have questioned officials as to what

⁸⁰ See: Amnesty International, *Brazil: They treat us like animals – torture and ill-treatment in Brazil*, (AI Index: AMR 19/022/2001).

⁸¹ Lemos-Nelson, Ana Tereza, *Police criminality, citizenship and the (un)rule-of-law*, 2003, p. 10.

steps are taken to suspend police officers suspected of human rights violations, the figures of suspensions and expulsions provided in response often largely represented police suspected of corrupt acts. For example, the São Paulo government informed Amnesty International in July 2003 that it had instituted a system to facilitate the fast expulsion of suspect police officers, while in April 2005 Rio de Janeiro announced its '*Navalha na Carne*' [scalpel in the flesh] campaign to oust corrupt police officers. Police officers suspected of petty acts of robbery and indiscipline appear far more likely to be investigated or suspended than officers responsible for alleged acts of homicide or torture. The latter are often regarded, by their colleagues and superiors, as effective or courageous officers.

Police officers, especially high-ranking police officers, involved in large-scale corruption enjoy the protection of political figures. On more than one occasion, Amnesty International has been informed, even by senior political figures, that incidents of serious corruption within the police have not been investigated or acted upon because such action would be counter to the interests of those in power, both at state and federal level.

Nevertheless, there have been some notable efforts to counter police corruption, often headed by the public prosecutor's office. In the "Cracolândia" case, the organized crime unit of the public prosecutor's office found that members of São Paulo's civil police had been torturing and extorting money from criminals in a renowned drug area in the centre of the city. According to reports, police officers forced prostitutes and drug users to pay between R\$200 and R\$300 a week, and charged R\$1,000 to R\$5,000 to be released from detention.⁸²

Other criminal activity

In Rio de Janeiro, Amnesty International was informed by residents of *favelas*, human rights groups working in *favelas* and subsequently by academic experts specialising in violence in *favelas* of police involvement with criminal elements. According to a number of different sources, police were involved in "selling heads"— kidnapping and selling drug traffickers from one faction to another. In some areas, this practice had reportedly been extended to the sale of ordinary citizens, not linked to drug gangs.

Police involvement in drugs, gun trafficking and other criminal activity is rarely reported to the authorities by local residents. In certain communities it was known that one military police battalion was affiliated to one drug faction and another to the opposing drug faction. Amnesty International was also informed by Rio de Janeiro's

⁸² Folhaonline, "Polícia torturava e extorquia traficantes na 'cracolândia', diz Gaeco", 3 December 2001.

State Secretary of Public Security that certain communities would only accept policing from their local military police battalion because that battalion was in the pay of the local drug bosses.

'Death-squads'

"Death squads", groups of active and off-duty police officers involved in killings, continue to proliferate around the country. The then Special Secretariat for Human Rights of the federal government informed Amnesty International in July 2003 that it had identified "death squad" activity in 15 of the country's 27 states, in an investigation prior to the visit of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions.

Early "death squads" were mainly made up of off-duty police officers hired to "eliminate" criminal suspects by small business owners. As such, there appeared to be an attempt by elements within the business community and the middle classes to "control" or "cleanse" unwanted sectors of society, ostensibly "criminal elements" but also invariably those most economically and socially marginalised. Ana Tereza Lemos-Nelson describes the process of "social cleansing" during the 1980s in the following terms:

"In countries with a tradition to classify unemployment as a misdemeanour, the incapacity to prove formal work represents an assumption, on the part of the police, that the individual is suspect of illicit gain and makes him, or her, a valid target for elimination. The profile of clandestine practices on the part of the security agencies, allied to the previous patterns of racial and social discrimination as criteria for suspicion, functioned as a real license to kill. In this context, "social cleansing" appeared as a new form of social control, characterized by the selective and organized physical elimination of members of the most socially, culturally and economically vulnerable sectors of the citizenship."⁸³

Death squads in São Paulo state

In the town of Ribeirão Preto, 107 youths were killed between 1995 and 1998. Most were less than 18 years old. The majority had been recently released from the FEBEM juvenile detention system. According to their families, most had been threatened, beaten or tortured by the police before being killed. Despite clear indications of "death squad" activity, the majority

⁸³ Op cit, Lemos-Nelson, Ana Tereza, 2003, p. 5.

of the cases were archived by the judicial system.⁸⁴ These cases are now being investigated by the public prosecutor's office.

In 2000, São Paulo's police ombudsmen's office began to receive a similar pattern of reports of killings of juveniles and young men from poor backgrounds from the town of Guarulhos. In July 2004, one of the prosecutors overseeing the investigations told Amnesty International that the pattern of killings seemed to indicate "social cleansing" by several small groups of police, probably working for local shop owners. He described the difficulties of investigating such cases in the face of persistent cover-ups, including planted weapons, false reports of confrontations or "resistance followed by death", and supposed attempts to "rescue" victims who invariably arrived at the hospital dead. A military police officer told a local news programme that he had killed more than 100 people in the town. He described how evidence was tampered with to make it look like a shoot-out or confrontation. He said, "*Muitas vezes, um inocente vira bandido no meio do caminho*" (Often an innocent person becomes a criminal on the way [to the hospital]).⁸⁵

The involvement of "death squads" with organized crime has expanded. There are now many investigations into police involvement in arms and drugs trafficking rings, as well as protection rackets and money laundering.

In Espírito Santo, the "*Scuderie Detetive Le Coq*", officially a police benevolent fund, was widely known to be involved in organized crime, as well as "social cleansing" and killing children.

"In Espírito Santo years of corrupt and criminal policing have contributed to extreme levels of violence in the state. The town of Serra, not far outside the state capital Vitória, has grown from a population of 9,000 to 200,000 over the last ten years since the opening of a steel mill there. Last year Serra registered a homicide rate of 97.62 per 100,000, making it the most violent town in Brazil."⁸⁶

⁸⁴ Justiça Global, *Execuções Sumárias no Brasil: 1997 – 2003*, 2003, p. 126

⁸⁵ Ibid p. 127

⁸⁶ *Época*, "Do velho oeste ao paraíso", 4 April 2005, pp. 74 – 81.

7. Massacre in the Baixada Fluminense

*"Eles é que botavam a lei por aqui, mas sempre achamos que só matavam vagabundos. Meu irmão dizia que só morriam os que deviam, mas ele era um trabalhador e agora está morto."*⁸⁷ They were the ones that were the "law" around here, but we only thought they killed scum. My brother said that only those that deserved to die died, but he was a worker and now he's dead.

*"Poderia ser apenas mais uma chacina naquele cotidiano de miséria, caso não tivesse como resultado um número mais expressivo de mortos e o claro envolvimento de policiais na sua "autoria."*⁸⁸

It could have been just another killing in that daily life of misery, had it not resulted in such a large number of dead and with the clear responsibility of the police.

On the night of 31 March 2005, 29 people were shot and killed in 11 different places by a group believed to consist of members of Rio's military police force. Between 8:30 and 11:00 pm, the group drove unchallenged in at least three cars around the areas of Queimados and Nova Iguaçu in the Baixada Fluminense district, a poor and densely populated area with some four million inhabitants, on the outskirts of Rio de Janeiro.

Eyewitnesses described how members of the group, some of whom wore masks and hoods, fired indiscriminately from their cars on passers-by. They sometimes stopped to get out of their cars and executed victims at close range. The victims were between 13 and 64 years old and included several school children. Media reports focused on the fact that almost all were in regular employment and only two of them had criminal records for minor offences. According to newspaper reports, nine people were killed in front of a single bar in Nova Iguaçu. Similar sources reported that six victims were killed by a single shot to the head, while 13 bullets were recovered from two of the bodies.

A military policeman stands guard outside a bar in Nova Iguaçu where a number of people were killed on 1 April 2005, reportedly by members of the military police. In total 29 people were killed in the Baixada Fluminense, in Rio de Janeiro, in a series of random shootings. The incident has been described as the largest massacre in Rio de Janeiro's history. © REUTERS/O Dia/Ernesto Carrico

⁸⁷ Folha de São Paulo "Achava que só matava vagabundo" diz irmão 7 April 2005

⁸⁸ Mello, Ricardo e Pereira, Tatiana Dahmer *A Baixada Fluminense, chacinas cotidianas e a morte da cidadania* Associação Brasileira de ONGs April 2005.

Official response

In the midst of an immediate national and international outcry, the authorities in Rio de Janeiro moved swiftly to state publicly that they believed the killings involved military police. The Rio Public Security Secretary, Marcelo Itagiba, stated in the national press that he believed the attack had been carried out in retaliation to attempts to stamp out corruption in the region in the context of the Rio government's *Operação Navalha na Carne*, Operation Scalpel in the Flesh. Two days before the massacre, a group of police officers had been arrested after they were caught on a video camera dumping two bodies outside a local military police headquarters and throwing the decapitated head of one of the victims over a wall.

The Rio state civil police and the federal police launched separate, parallel, investigations into the massacre. Bullets recovered at the crime scene were of the type fired exclusively by official police weapons. An eyewitness claimed to have seen police officers retrieving bullets from the corpses, crime scene evidence. In the days following the massacre, 10 police officers and one former police officer were arrested and were subsequently charged with murder. The civil police investigation has linked at least 15 earlier killings to the massacre suspects, who are also believed to have been involved in a racket involving kidnapping and extortion of lorry drivers.

The investigations were blighted by further violence. On 5 April, José Martins Rodrigues, a 52-year-old builder, was shot dead as he walked along the street 100 metres from the civil police station where the investigation into the massacre was based. Police interpreted the attack as direct provocation. Amnesty International is not aware that anyone has been charged in relation to this killing.

Motives

*"Já encontrei os grupos em operação. Listas dos condenados a morrer eram expostas em padarias. Nas noites da Baixada, ser branco é o equivalente a ter um passaporte. Os negros sempre são suspeitos."*⁸⁹

I've already come across the groups in operation. Seen lists of those condemned to die displayed on the walls of bakeries. At night in the Baixada, being white is the equivalent of having a passport. Blacks are always under suspicion.

⁸⁹ Dom Mauro Morelli, Bishop of Duque de Caxias Isto é Ed 1852, April 2005.

“A chacina foi ação inicial, mas existe orquestração maior e gerenciamento único com o objetivo de atingir a política de segurança adotada para moralizar a Baixada... A Baixada tem uma característica medieval. O que quer a aristocracia local é colocar muros que protejam seus feudos e contar com a proteção exclusiva da polícia.”⁹⁰

The massacre was the initial action, but behind it lies a larger plan to target the public security policy adopted to gain control over the Baixada... The Baixada has mediaeval characteristics. What the local aristocracy wants is to put up walls to protect their feudal powers and they expect to count on the exclusive protection of the police.

There are numerous theories as to the motive for the attack. Initially, the authorities suggested that it was a reaction to recent attempts to weed out corrupt police, or the result of a feud between different groups of police involved in illegal private security work. It was later suggested that the killings were an attempt to distract police investigations from higher-ranking figures among “death squads” in the region. The most recent reports have claimed that the killings were the result of a battle for political space between two senior military police officers with political aspirations, one of whom is now retired.

‘Death squads’ in the Baixada Fluminense

“Death squad” killings are a routine and daily occurrence in the Baixada Fluminense, and that this massacre is only distinguishable from other killings because of the unusually high number of victims. The day-to-day activities of “death squads” go largely unreported.

The power of “death squads” in the Baixada Fluminense has been consolidated over the years through alliances with local politicians who have manipulated the issue of security for their own ends. Convicted “death squad” members have even stood for election. In 2004, the daily newspaper *O Dia* reported that, according to police and public prosecutors, out of 10,000 prospective candidates for councillor in the 2003 local elections, 160 had links with “death squads”, while a further 50 had direct links with crime. During the campaign, a former military policeman who had been convicted of participation in “death squad” activity displayed election posters stating “*Só tem um jeito: D’Souza neles*” [There’s only one way: let D’Souza get them].⁹¹

⁹⁰ Military Police Colonel Paulo César Lopes in *O Dia*, *Chacina: Um ataque ao poder paralelo* 11 April 2005.

⁹¹ *O Dia*, “*Matadores de olho nas urnas*” 22 April 2004.

Note also that under Brazilian law convicted prisoners with no prior criminal record are allowed to appeal in liberty, thus allowing a convicted person to stand for election, see also footnote 96.

8. Judicial failings

Inaction

While some prosecutors and judges have played an important role in investigating, prosecuting and trying police officers accused of human rights violations, many more have been reluctant to challenge or question the police or the state public security apparatus. In many cases, the judiciary supports the perpetuation of human rights violations and social discrimination, by issuing collective search warrants, accepting poor or irregular police investigations or allowing confessions extracted under torture to be used as evidence.

The reluctance of the judiciary to challenge the status quo has reinforced the exclusion of some sectors of society from the protection of the state.

Following his recent visit to Brazil, the UN Special Rapporteur on the independence of judges and lawyers, Mr Leandro Despouy, wrote:

“Lack of access to justice is more of a problem for social groups who suffer from discrimination or marginalization. The Special Rapporteur heard many accounts of court cases involving people from these groups who claimed that the initial violation of their rights had been compounded by their victimization by the judicial system, which reproduces the same discrimination and the same prejudices in the administration of justice.”⁹²

In camera judicial hearings

Increasingly, cases relating to human rights violations are heard *in camera*, especially when they involve members of the administration or important political figures. This appears to flout legal provisions that cases should not be heard *in camera* if it is not in the public interest.⁹³ This secrecy prevents relatives and members of the human rights community from following such cases.

⁹² Report of the Special Rapporteur on the independence of judges and lawyers, Mr Leonardo Despouy, Addendum, Mission to Brazil. UN Doc. E/CN.4/2005/60/Add.3, 22 February 2005, para 24.

⁹³ **Constituição Federal Art. 93.:** IX - todos os julgamentos dos órgãos do Poder Judiciário serão públicos, e fundamentadas todas as decisões, sob pena de nulidade, podendo a lei limitar a presença, em determinados atos, às próprias partes e a seus advogados, ou somente a estes, em casos nos quais a preservação do direito à intimidade do interessado no sigilo não prejudique o interesse público à informação;

Código de Processo Penal DECRETO-LEI Nº 3.689, DE 3 DE OUTUBRO DE 1941

Art. 20. A autoridade assegurará no inquérito o sigilo necessário à elucidação do fato ou exigido pelo interesse da sociedade.

Of 12 cases of suspected extrajudicial execution and torture being followed by the Sapopemba human rights centre in São Paulo, four are being conducted *in camera*. All four involve police officers as defendants.

A decision to end the investigation into the possible involvement of São Paulo's State Secretary of Public Security and two judges in the "Castelinho" case, was also taken *in camera*, prohibiting human rights groups from examining its findings.

The case relates to the killing of 12 suspected members of a criminal gang, on 5 March 2002, by members of special units of São Paulo's military police, during an operation codenamed "Castelinho". About 100 officers ambushed a bus carrying the men who were allegedly killed in a shoot-out. None of the police officers was injured. Forensic tests by the state supported the claim that the men had been killed in an exchange of fire. However, an independent forensic investigation ordered by the municipal human rights commission showed that the majority of the 12 alleged gang members were killed by police bullets fired from directly above them. This suggests that the men had been executed by officers in the bus. In December 2003, 53 police officers were charged with murder. The case has not yet come to court.

The "Castelinho" operation received huge media coverage, was hailed as a success in the fight against crime, and was used on television in the 2002 elections as evidence of the state government's tough line against crime. It was reportedly planned by an elite police unit linked directly to the office of the São Paulo State Secretary for Public Security, Saulo de Castro Abreu Filho. The unit, called the GRADI,⁹⁴ was set up in 2000 to investigate "hate crimes" and other crimes of discrimination. In the aftermath of the "Castelinho" killings, it was reported that the GRADI had been torturing and then illegally releasing convicted criminals from prison in order for them to infiltrate criminal groups, and had reportedly planned operations that led to 22 deaths in an eight-month period in 2002. It was widely denounced by human rights defenders as having the operational characteristics of a "death squad".⁹⁵

Slowness

The failures of the judicial system are further compounded by its extreme slowness. Cases can take years to be completed, especially if there are appeals to higher courts.

Many of the major cases of alleged extrajudicial executions followed by Amnesty International continue to go through the courts years after the crimes have been committed, and often the accused are at liberty while their cases drag on. Following

⁹⁴ *Grupo de Repressão e Análise dos Delitos de Intolância*, Groups for the Repression and Analysis of Crimes of Intolerance.

⁹⁵ Information on this case was widely disseminated in the national media. Further information was passed to Amnesty International by São Paulo's Municipal Commission on Human Rights.

the 1992 massacre of 111 prisoners in Carandiru jail, 105 military police officers are still to stand trial, while the commanding officer, sentenced to 632 years in 2002 for leading the operation, is presently serving as a state deputy as he awaits his appeal. The case of the Eldorado de Carajás massacre, when 19 land activists were killed by military police in 1997, was rendered untenable due to flawed police and forensic investigations. This has meant that 153 military police officers are awaiting a possible second trial, while commanding officers who were convicted are at liberty pending their appeals.⁹⁶

Information passed to Amnesty International from the Sapopemba human rights centre in São Paulo confirms this pattern. They are following eight cases of suspected extrajudicial executions committed between 1999 and 2004. Five are still in the investigation stage, one is being appealed by the public prosecutor's office following a judicial decision not to accept the charges, one was archived without charge after a secret investigation, and one is being appealed following a judicial decision by the *Tribunal de Justiça*, (state supreme court), to suspend the investigation. In all cases the police officers involved are on active duty.

The judiciary is not immune from the corruption that pervades Brazil's criminal justice system. In October 2003, federal judges and members of the federal police in São Paulo were arrested following an investigation into a ring believed to be selling judicial leniency. In return for money, federal police would reportedly ensure faults in investigations, allowing judges to pass light sentences.

⁹⁶ The law, law 5,941, that allows first time offenders of "good character" [*bons antecedentes*], to appeal in liberty was issued in November 1973. Known as the Lei Fleury, it was passed through congress following the detention of Sergio Paranhos Fleury, a police officer during the military dictatorship. In its 1972 report "Report on Allegations of Torture in Brazil", Amnesty International attributes 85 alleged cases of torture to Fleury. While the law is seen by certain legal experts as a protection of the right of innocence until proven guilty, it has undoubtedly contributed to levels of impunity of state officials accused of human rights violations and gross human rights violations who remain in liberty years or even decades after crimes they have been convicted of took place.

9. Fighting for human rights

Brazil boasts a strong and dynamic human rights movement, working on diverse issues across the length and breadth of the country. The human rights community is active in documenting and reporting cases of human rights violations, and in presenting and following them through national and international judicial and legal systems. It is also an important negotiator with government, contributing to legislation on human rights. It has succeeded in gaining greater recognition of Brazil's human rights problems within Brazil and around the world.

Defending human rights in socially excluded communities

Today there are numerous human rights groups in socially excluded communities, giving voice to the need for a rights-based dialogue with the state. During its many visits to Brazil, Amnesty International has met both old and new human rights groups in *favelas* and poorer communities that are addressing the persistent problems of violence, criminality and abuse at the hands of state officials.

These groups work in diverse ways. Their methods include: documenting and denouncing violations; providing judicial assistance and human rights education; creating forums to facilitate strategic and effective dialogue with the authorities; and creating projects to promote conflict resolution and to provide options outside crime for children and adolescents.

The work of these human rights groups can have a direct impact on the situation of the community. Public awareness of their rights, persistent complaints to the authorities, media coverage and strategic dialogue have in some cases succeeded in reducing human rights violations by the police.

In July 2004, Amnesty International visited the community of Parque Novo Mundo, in the north of São Paulo. The community has some state housing, built under the Cingapura housing project of a previous municipal government, but the construction is of poor quality. Around this housing are crowded extremely decrepit temporary shacks. Proper sanitation is largely missing, the roads are precarious and there is a desperate lack of leisure facilities.

In 2004, residents of this community, with the support of the Centro Santo Dias de Direitos Humanos and the *Movimento Nacional de Direitos Humanos* (MNDH) National Movement of Human Rights, organized a series of events to denounce the systematic violations of their human rights by police officers. In front of an audience which included the federal government's then Special Secretary for Human Rights,

Nilmaro Miranda, members of the community denounced extrajudicial executions, deaths as a result of excessive use of force, arbitrary arrests, violence and torture, as well as extensive corruption.

On 21 October 2001, Rubens Rodrigues de Lima, a local shop owner and human rights activist, approached two military police officers who were humiliating his young son during a police operation in the "Chácra Fazendinha" residential complex in Parque Novo Mundo. One drew his gun and pointed it at Rubens' head, then shot him in the leg. The officers pushed him to the ground, kicked him and threatened to plant a gun on him and arrest him. He went to hospital, but was taken by civil police officers to the police station where he was ordered to provide police with the names of local drug traffickers. After several members of his family arrived, he was released.

Rubens Rodrigues de Lima reported the case to the police internal investigations unit. Following an investigation, a military court convicted one officer of "light" bodily harm [*lesão corporal de natureza leve*] and suspended him for 30 days. Police, claiming to be acting on information that he is involved in criminal activity, have repeatedly invaded Rubens Rodrigues de Lima's shop. Amnesty International delegates met with Rubens in July 2004 and in April 2005. He informed Amnesty International delegates that he still suffers medical problems with his leg and his lawyers believe that although the courts found in his favour, it will be years before he receives compensation from the state.

When Amnesty International returned to Parque Novo Mundo in April 2005, delegates were told that cases of police violence and abuse had decreased. Community leaders said that after they managed to generate publicity, officials had visited the community and expressed their interest in investigating reported violations promptly. At the time of writing, Amnesty International has no detailed information as to the state of these investigations. Amnesty International noted a continued mistrust of the police among community leaders, but they also recognized that there were some good police officers and that a respectful police force could be part of a broader contribution to human rights.

Despite the achievements of human rights defenders in addressing criminality and violence, the space for those working in human rights continues to be restricted and dangerous. This is especially the case in socially excluded communities.

Human rights defenders at risk

There are still many barriers to the promotion and defence of human rights in Brazil. Defending the rights of socially excluded communities is often dismissed as defending criminals, given the pervasive discrimination in much of Brazil's media and politics. These attitudes are bolstered by those with a vested interest in

maintaining the status quo, and also by many of those who have suffered personally from crime.

Human rights defenders have been at the forefront of defining the changes required to achieve a secure and effective public security system across Brazil, from police reform to the fight against organized crime and corruption. Often they have risked their lives to carry forward their work. They face repeated attempts to intimidate them and discredit their work. Government officials have often failed to defend the activities of human rights defenders following articles in the press which have attacked their work. They have also suffered threatening phone calls, arbitrary criminal charges and defamation law suits.

During a public meeting with members of the communities of Santa Lúcia and Morro do Papagaio, in Belo Horizonte, in July 2004, Amnesty International delegates were surprised when military police officers entered the meeting with guns drawn, allegedly to "find out what is going on". Community leaders and human rights activists immediately approached the police officers and ushered them out. When Amnesty International raised the issue with the Secretary of Public Security, no satisfactory reason for such an intervention was given.

Attacks and threats against human rights defenders are a daily reality. One community leader, Cícero Pinheiro Nascimento, of "Cingapura São João" in Parque Novo Mundo, told Amnesty International that since taking a stance against violent and corrupt policing in his community, he had suffered constant harassment at the hands of the police. He said that his house had been raided several times by the police, often late at night. His children were now terrified if they saw a police officer. He also said that police repeatedly stopped his car, even when he was not driving it, and he had received a number of arbitrary fines. Finally, he said that he had been stopped by a police officer who had taken his photograph and has since been informed that it has been distributed across the police stations of the city he lives in. Cícero is the coordinator of a human rights centre recently inaugurated in Parque Novo Mundo.

In Sapopemba, community human rights activist and lawyer Valdênia de Paulino has received a number of death threats. She has been a major force in the *Centro de Direitos Humanos de Sapopemba* (CDHS), the Sapopemba Human Rights Centre, which has documented and denounced cases of extrajudicial executions, excessive use of force, torture and arbitrary arrest, among other things. The centre's work has reportedly resulted in a notable decline in police abuses in the region, although prosecutions of individual police officers have been extremely slow. As a result of her work, Valdênia de Paulino began to receive death threats, some in the form of phone

messages, some passed through members of her family and friends. The federal government provided her with police protection, but this proved ineffective and she was forced to leave the country for a period during 2004. Since her return, although she continues to work at the human rights centre, Valdênia has been forced to leave the community she grew up in.

In August 2004, Brazil hosted the Third Latin American Consultation on Human Rights Defenders, a regional conference of human rights defenders. During the conference, the Brazilian government launched its National Plan for the Protection of Human Rights Defenders, based on a dialogue between members of civil society and state and federal authorities. It is one of the first governments in the region to prepare such a plan, in line with the recommendations of the UN Declaration on Human Rights Defenders: Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. Although human rights groups have questioned the level of political and financial support invested in the proposal, it is an important step in recognizing the work of human rights defenders in Brazil and identifying mechanisms for their protection.

Promoting the language and concepts of human rights in socially excluded communities is essential for long-term change. Too often housing, health and education projects are unsustainable because they lack continued political support. Socially excluded communities need to secure from the state effective services, including public security, to protect their human rights and provide a secure environment that allows them to participate in the development of the country.

10. Government policy and human rights-based policing

Brazilian authorities at federal and state level have a long way to go to fulfil their responsibility to ensure the protection and safety of their citizens. Since the terrorist attacks of the 11 September 2001, discussions about security are often identified with lessening human rights protection. In this environment, the human rights community must address the fact that security and human rights are not mutually exclusive. On the contrary, genuine security depends on respect for human rights. Public security entails protecting people from being killed and from suffering violence in all its forms. It also demands access to clean water and healthy food, and education to allow children progress in life. Security must not be about the protection of some people at the expense of many others.

Human rights-based policing

In Brazil, as in most countries, the responsibility to ensure the protection of “life, liberty and security of person” lies largely with the police.

According to the Universal Declaration of Human Rights (UDHR), among other international human rights standards,⁹⁷ everyone shares a responsibility to uphold the UDHR in its entirety. However, a number of its provisions are particularly relevant to policing.⁹⁸ Police personnel, as officers of the state (where primary responsibility for the protection and promotion of human rights resides) are, with all other individuals and organs in society, obliged to know and to apply international standards for human rights. Moreover, Article 28 of the UDHR recognizes that a “social order” is a necessary condition for the realization of all other rights.⁹⁹ Within the context of ensuring “social order”, the effective deployment of a policing service in a manner

⁹⁷ See footnote 8

⁹⁸ These include:

- Everyone has the right to life, liberty and security of the person (Article 3);
- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5);
- All are equal before the law and entitled without any discrimination to equal protection of the law (Article 7);
- No one shall be subjected to arbitrary arrest and detention (Article 9);
- Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to a law in a public trial at which they have had all the guarantees necessary for their defence (Article 11(1));
- No one shall be subjected to arbitrary interference with their privacy (Article 12);
- Everyone has the rights to freedom of opinion and expression (Article 19);
- Everyone has the right to freedom of peaceful assembly and association (Article 20).

⁹⁹ UDHR Article 28: “Everyone is entitled to a social and an international order in which the rights and freedoms set forth in Declaration can be fully realized.”

that respects human rights is one of the key means by which a sovereign state can fulfil both its international obligations and its obligations to its own citizens.¹⁰⁰ This overarching purpose is reflected in core police functions recognized and carried out by police services around the world, notably:

- To maintain public tranquillity and law and order in society;
- To protect and respect the individual's fundamental rights and freedoms;
- To prevent and combat crime;
- To detect crime;
- To provide assistance and service functions to the public.

These human rights principles are clear, but they are breached by the day-to-day practices of many of Brazil's police forces.

Many Brazilian police officers believe that human rights can be an impediment to "effective" policing. According to this perspective, a human rights approach to policing is overly concerned with the rights of criminals rather than the victims of crime. The prevailing police culture treats anti-crime "law enforcement" as more important than human rights principles, and as a result police practice has become seriously tainted by unethical or unlawful conduct.

The failure by the Brazilian authorities to check these practices with codes of conduct, effective supervisory mechanisms and, when necessary, criminal prosecutions, has resulted in a serious deterioration in relations with local neighbourhoods. This has deprived the police of the community support and assistance that are essential for preventing and combating crime.

Brazil's policing cannot be described as either professional or effective. It is widely acknowledged that the police cannot be effective unless they have the consent of the people being policed.¹⁰¹ This is achieved when society believes that policing is impartial and carried out on behalf of all the community, rather than favouring certain groups within it. A police service will be most effective, and will maintain the confidence, trust and respect of the public, when it is representative of the community and when its practices recognize the human dignity and the rights of all individuals, while providing them with effective protection from wrongdoing.

¹⁰⁰ R. Crawshaw, B. Devlin, and T. Williamson, *Human Rights and Policing: Standards for Good Behaviour and a Strategy for Change*, Kluwer, 1998.

¹⁰¹ Committee for the Administration of Justice, *Human Rights on Duty: Principles for better policing – international lessons for Northern Ireland*, 1997.

The UN, in a continuing effort to assist member states in the development of national police practice consistent with the human rights framework, has developed a series of Principles, Codes and Guidelines related to policing. The Resolution that adopted the UN Code of Conduct for Law Enforcement Officials states that "every law enforcement agency should be representative of and responsive and accountable to the community as a whole".¹⁰² It establishes a fundamental standard on the nature of human rights-based policing, and the relationship police should have with the communities they serve and political system within which they function.

The Commentaries accompanying the eight articles of the Code of Conduct for Law Enforcement Officials, and other international standards, should be assumed as sources of interpretation of these core principles and should inform national processes of reform towards police agencies that are representative, responsive and accountable.

a) Representative

For a police agency to be representative of a community as a whole, its membership should be representative of the community according to key criteria, including race or ethnic group, gender, language and religion. Minority communities must be adequately represented, and individuals from these groups must be able to pursue their careers fairly and without discrimination. At a minimum, an internal police culture

¹⁰² See resolution 34/169 Code of Conduct for Law Enforcement Officials, adopted by the UN General Assembly on 17 December 1979.

See also the UN Office of the High Commissioner on Human Rights' training materials on human rights for police which describe democratic policing principles in the following way:

Representative policing ensures that:

- Police personnel sufficiently represent the community they serve;
- Minority groups and women are adequately represented through fair and non-discriminatory recruitment policies in police services; and
- The human rights of all people are protected, promoted and respected.

Responsive policing ensures that:

- Police are responsive to public needs and expectations, especially in preventing and detecting crime and maintaining public order;
- Policing objectives are attained both lawfully and humanely;
- Police understand the needs and expectations of the public they serve; and

Accountable policing is achieved in three ways:

- Legally: police are accountable to the law, as are all individuals and institutions in States;
- Politically: police are accountable to the public through the democratic and political institutions of government as well as through the police and citizen liaison groups; and
- Economically: police are accountable for the way they use resources allocated to them.

OHCHR Professional Training Series No. 5: Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police, 1997.

should be established that is sensitive to the needs and concerns of minority communities.

b) Responsive

While democratic systems allow for public concerns to be reflected through an elected legislature and other political institutions that direct and guide the police, a police service striving to be genuinely responsive to the community as a whole requires a leadership and internal culture that is committed to strengthening the consent and cooperation of the community they serve. There must be an awareness of and a willingness to respond to community concerns and expectations of police methods and performance, especially in relation to new dimensions of crime and criminality.¹⁰³

c) Accountable

The principle of public accountability, as in accountability to the community as a whole, encompasses both legal accountability and concepts of “democratic accountability”.

Legal accountability requires a transparent legal framework for policing, consistent with international human rights standards, which makes clear what actions (or omissions) of police are considered abuses, and which holds individual officers accountable for those actions or omissions.

Ensuring effective legal accountability requires a framework of independent, yet interlocking oversight mechanisms. They include:

- An independent prosecution service that actively pursues cases involving police. Brazil’s prosecutors can play an important role in oversight, investigation and prosecution. Many prosecutors have so far been reluctant to play this role, while attempts to limit prosecutors’ powers by the Federal Supreme Court could further hinder this;¹⁰⁴
- An independent and proactive judiciary should take action against police abuses that come to light in the course of criminal proceedings or other legal processes, including judicial inquiries into deaths. Brazil’s judiciary suffers from an

¹⁰³ Caracas Declaration, of the 6th UN Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, 1980, and Milan Plan of Action, Article 5(h), of the 7th UN Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 1985.

¹⁰⁴ Following an investigation by prosecutors into allegations of corruption against a federal deputy an appeal was sent to the Federal Supreme Court (STF) in August 2004 as to whether prosecutors had the constitutional right to initiate such investigations. Amnesty International wrote to the President of the STF to express its concern that the withdrawal of such powers would undermine investigations into human rights violations. At time of writing, the decision by the Federal Supreme Court was still pending.

extremely cumbersome system and a frequent reluctance to challenge the police on human rights issues;

- An internal police accountability mechanism should fairly and impartially address breaches of police procedures, impose disciplinary measures or propose the initiation of criminal proceedings, and thereby inculcate a culture of professionalism, ethical conduct and respect for human rights throughout the police service. Brazil still lacks an internal investigation system that is seen as impartial and effective;
- An external police oversight mechanism (ombudsman or complaints investigation body) should be empowered to effectively and independently investigate complaints of abuses lodged against police officers and, if necessary, recommend prosecution and remedial action. While limited external oversight exists there is still much to be done to improve it.

"Democratic accountability". Public accountability requires that the police must, like any public service, be accountable to a democratic authority. However, a broad understanding of the concept of "democratic accountability" extends beyond traditional notions of police accountability to civil society through elected representatives in the legislature. It also covers aspects of "responsiveness" intrinsic to community policing, and the need, in some cases, for direct civil society participation on Police Commissions (a Police Board or Police Authority). Police Commissions oversee, for example, the setting of key strategic objectives for the service, the appointment of police senior leadership and the monitoring of overall police performance and of public responses to it.

National public security policy

Public security policy in Brazil has long been the preserve of state governments, as the main remit of policing falls under state control. The lack of a national policy on public security has not only impeded coordination between police forces and other federal and state authorities in their fight against crime, but also exacerbated the gap between policing and human rights, with the federal government answering for violations committed by state police forces.

It was under Fernando Henrique Cardoso's government that the first national human rights plan was launched, on 13 May 1996. This was the first consolidated attempt by a federal government to adopt the language of human rights. However, the lack of an initial policy on public security exacerbated the idea that human rights and public security were mutually exclusive.

It was not until 20 June 2000, a week after the hijack of a bus in the centre of Rio de Janeiro which led to the killing of a hostage and the hijacker, that the government rushed through the launch of its National Public Security Plan, the first ever attempt by a federal government to address the question of public security. The plan, financed by the national public security fund, set out 15 pledges made up of 124 action points divided between state and federal responsibility. The pledges ranged from combating drug trafficking and organized crime to increasing police intelligence systems and improving the prison system. Human rights issues were consigned to specific pledges – they included promises to combat multiple killings and summary executions, and to intensify the implementation of the national human rights plan. They offered little in the way of structured proposals for reform, and there were only three years in which to implement them. Given these limitations, the effect of the plan was largely to distribute centralized funds to the states for the acquisition of arms and vehicles, with some limited investment in small individual projects. By the end of the Cardoso presidency, R\$1 billion had been distributed, largely for such purposes, only a third of the budget originally proposed.¹⁰⁵

By the end of the Cardoso presidency in 2002, the country faced state and federal police strikes, mass prison riots across the country, and continually mounting urban crime. Benedito Mariano, the first police ombudsman in the country, cited in a study evaluating the presidency of Fernando Henrique Cardoso, stated:

“There is no doubt that human rights policy, with the creation of a human rights secretariat was important...However, it was little for a government that had set security as one of its priorities and that finishes its eighth year without a clear policy for the issue.”¹⁰⁶

The Single Public Security System

When Luiz Inácio Lula da Silva was elected in 2002, the National Public Security Plan presented as part of his election manifesto stood out as possibly the first serious strategy for public security in Brazil.

To ensure implementation of the proposed reform package in individual states, the government created the *Sistema Único de Segurança Pública* (SUSP), the Single Public Security System. As states signed up to this reform package, and presented

¹⁰⁵ Godoy, Marcelo, “Direitos Humanos e Violência” in Lamounier, Bolívar & Figueiredo, Rubens, São Paulo, 2002. *A era FHC: um balanço* Cultura, p. 440 and *Ministerio da Justiça Segurança Pública deve ter R\$600 milhões para 2003* Brasília 31 October 2002.

¹⁰⁶ Op cit. Godoy, Marcelo p. 447.

their own specific reform plans, they would receive funds from the national public security fund.

The SUSP set out a series of reforms within two programmes:

- Reform of public security institutions: modernization of institutions; improving efficiency; raising morale; combating corruption; and increasing popular confidence in these bodies;
- Violence reduction: defining policies to target and combat various forms of crime.

To guide these reforms the SUSP sets out a number of guiding principles:

- Human rights and police efficiency are compatible and mutually necessary;
- Preventive social action and police action are complementary and should be combined in public security policy;
- Police bodies must serve citizens, protecting their rights and liberties and inhibiting and punishing violations;
- It is the duty of the police to ensure the observance of the law by observing it themselves;
- Police are human beings, workers and citizens, protected by human rights and the constitutional privileges corresponding to their functions;
- The criminal justice system should be democratic and just, guided by equity, accessible to all and resistant to violence and discrimination.¹⁰⁷

Virtually for the first time a Brazilian government connected respect for human rights, equal access to justice and combating violent crime. The proposals in the SUSP offered a potentially innovative and serious proposal to reform the country's public security system.

Proposed areas of reform included: addressing the management, training, education and professional structures of police; improving the technology and ability to share information between police forces within states and across the country; proposals to unify the work of federal and state police forces within states to facilitate communication and work; proposals to strengthen both internal and external oversight of the police; programmes for community-based policing and the management of crises and conflicts; proposals to combat gender and domestic violence; and projects for crime prevention as part of integrated social actions promoted in collaboration with other government sectors and civil society.

¹⁰⁷ Ministério da Justiça, Secretaria Nacional de Segurança Pública, "Apresentação dos Planos Estaduais de Segurança".

Disarmament

A central element of the SUSP was a set of proposals for disarmament, initially through the control of the sale and carrying of guns in Brazil. In December 2003, the government passed into law the Disarmament Statute, law N°10, 826/03, a major step towards controlling the use of guns in Brazil. The law regulates the registration of guns and limits the right to carry arms essentially to the armed forces and members of the public and private security forces. For the rest of the public to carry guns became a criminal offence. The Disarmament Statute also criminalizes arms trafficking. It limits the number and type of guns that members of the public security forces are allowed to own as part of their work to one, which is provided by the state, although this can be carried both on and off duty. However, members of the security forces wanting to own guns in a private capacity must meet the same requirements as the general public.

There are some weaknesses in the Disarmament Statute. Members of the public must provide evidence of no prior criminal convictions, proof of legal employment and "proof of technical capacity and psychological ability to handle firearms", but members of the security forces are exempt from these regulations. The statute fails to stipulate regulations to ensure effective training, controls and oversight of the use of firearms by state security forces. In relation to private security guards, companies themselves are to ensure the compliance of individual employees.

In July 2004, the government increased its disarmament efforts by launching a national disarmament campaign. The campaign, where members of the public were paid for guns that were handed in, was seen as a success by the government and participating NGOs. Two weeks before its end, in June 2005, 356,139 guns had been collected across the country and destroyed.

Amnesty International was recently informed by Dr Túlio Khan, analysis and planning coordinator of São Paulo's state secretariat for public security, that homicide figures in the state had dropped since 1999. This was reportedly as a result of targeted security measures including programmes to disarm the population and to control the sale of alcohol in areas of concentrated violence. According to official figures, the number of homicides [*homicídio doloso*] fell from 12,818 in 1999 to 8,934 in 2004.¹⁰⁸

¹⁰⁸ There was some controversy over the accuracy of the homicide figures in the state of São Paulo. In its report *Violência por armas de fogo no Brasil*, the Núcleo de Estudos da Violência (NEV) of the University of São Paulo challenged the quality of statistics produced by state public security secretariats. The criticism was reiterated in an article in the *Folha de São Paulo* on 18 January 2005 by NEV and representatives of Instituto Brasileiro de Ciências Criminais (IBICRIM). The article claimed that police regularly misreported crimes, making it difficult to have confidence in official statistics. A representative of São Paulo's public security secretariat dismissed this discrepancy in a meeting with Amnesty International, saying that while there were some mistakes they were statistically negligible.

Contrary information, passed to Amnesty International by the former president of the State Human Rights Commission as well as the former municipal secretary for employment, attributed this decline to targeted social investment by both the municipal and federal governments. It is notable, though, that during this same period killings by police increased in São Paulo, especially in socially excluded areas.

On 2 September 2005, the government released statistics of the ministry of health which showed that since the introduction of the disarmament statute homicide rates in Brazil had been reduced by 8.2 per cent during 2004. The federal government and local NGOs have attributed this decline to the success of the Disarmament Statute. This was the first such a reduction nationally in 13 years.¹⁰⁹

The issue of disarmament is not solely a national one. Brazil is the largest manufacturer and exporter of small arms in the region. Similarly, a recent statement by the head of Rio de Janeiro's police intelligence unit claimed that 80% of arms in the *favelas* of Rio de Janeiro are coming from Paraguay, where controls on the sales of guns are much more relaxed. This includes firearms manufactured in Brazil which are exported to Paraguay and then illegally smuggled back into the country.¹¹⁰

Amnesty International, Oxfam and IANSA are engaged in a global campaign to establish an international Arms Trade Treaty to prevent the irresponsible transfer of arms that contribute to violations of human rights and humanitarian law.¹¹¹ Such a treaty will contribute to the control the brokerage and transfer of guns used for illegal ends or the violation of human rights while it will increase controls on stockpiles of guns held by the authorities ensuring these do not fall into criminal hands.

In November 2003, during a meeting with Amnesty International's Secretary General, President Lula expressed interest in supporting this Control Arms campaign. However, since then, the Brazilian government has taken no steps to support the ATT, even though Brazilian officials have attended meetings on the issue, and Amnesty International has received no replies to its requests for action by the Brazilian government.

¹⁰⁹ Ministério da Saúde, UNESCO, Ministério da Justiça *Vidas Poupadas: Impacto do Desarmamento no Brasil 2004*, 2 September 2005.

¹¹⁰ EFE "Un 80 porciento de armas en favelas brasileñas es de Paraguay", 8 June 2005

¹¹¹ See: Control Arms, *Shattered Lives: the case for tough international arms control*, 2003, Amnesty International, Oxfam and IANSA.

As a follow-up to the Disarmament Statute, the government promised a referendum on a total ban on the sale of guns in Brazil. At time of writing the referendum was set for October 2005. The referendum is a potential milestone in the campaign against gun-related violence in the region and has been driven by exceptional campaigns led by NGOs, civil society and grass-roots movements. Amnesty International, as a Nobel Peace Laureate and as a member of the control arms coalition, publicly supported the 'yes' vote, calling for the complete ban of gun sales to civilians.

The SUSP as a benchmark for reform

Three years into President Lula's term, some steps have been taken to combat violence. However, the federal government has given insufficient support and investment to the SUSP and few state governments have proved to be willing or effective in implementing it.

The government has failed to challenge fundamental barriers to profound public security reform. The necessary steps include, but are not limited to: a reassessment of Article 144 of the Constitution, which sets out public security responsibilities, to allow for the reform of the public security system; an increase in the institutional power of the National Public Security Secretariat in the federal government, to give it the political weight to oversee the reform process; and the investment of political and financial resources in the reform process to guarantee its implementation. In April 2005, the government cut the national public security fund's budget from R\$412 million to R\$170 million as a continuation of its policy of tight fiscal control.

Specific areas of concern are:

Oversight: There is still a clear lack of independent oversight of police forces at all levels. At present there is no ombudsman's office for the federal police and only nine states have some form of police ombudsmen's office. Even among these, none fully comply with standards of independence, lacking both the power to take up cases and budgetary security. People in socially excluded communities are often unaware of these bodies, intimidated by their location – in the centre of cities and often in the same building as that of the State Secretariat for Public Security – or sceptical. In addition, ombudsmen's offices that have tried to expand the remit of their work have reportedly been subject to internal restrictions, while attempts have been made to influence the selection process of ombudsmen in some states.¹¹²

¹¹² The European Union has for some time reportedly been working on a project costing several million Euros for the training of police ombudsmen. While such institutional support is clearly welcome, there is concern that such a course will not be effective if intrinsic problems within the ombudsman system are not addressed beforehand and as part of such training.

Confrontational policing: While the SUSP clearly sets out the need to end violent and repressive policing, federal and state government actions have not supported this process. One of the government's principal actions on public security has been to create the National Public Security Force, made up of elite elements of state military police forces, to support state police in the fight against drug factions and criminal gangs. However, the way in which it was established has reinforced ideas of policing socially excluded communities on the basis of confrontation and invasion. Furthermore, the government has established a 7,000-strong military unit¹¹³ to "guarantee law and order on the streets". According to the army, as well as intervening in threats to national security, the unit's tasks include: re-taking *favelas* from narco-traffickers; containing prison rebellions; evicting land invaders; and containing public protests and civil unrest. Amnesty International has consistently criticized the use of armed forces in the area of public security for which they are not properly trained and which contribute to increased levels of human rights violations.¹¹⁴

Community security: Amnesty International has been concerned by the lack of apparent support for alternative or community-based security projects from the federal and many state authorities. Despite their achievements, many of these projects have not been sustained as lack of political support undermined the spirit of the project, or changes of administration led to their dismantlement.

The importance of the National Plan for Public Security and the SUSP was that they represented the first serious attempt to propose long term analysis and strategies for public security reform. As such, they stand as a benchmark for this and future governments who are willing and prepared to tackle the extreme levels of violence which plague the lives of so many Brazilians today.

¹¹³ *11ª Brigada de Infantaria Leve – Garantia da Lei e da Ordem* (BIL-GLO), 11th Light Infantry Brigade – Guaranteers of Law and Order, established by President Lula under decree number 5,261.

¹¹⁴ In an interview with *O Globo* on 3 April 2005, ("Força contra a disordem") Brigade General Antonio Luiz da Costa Burgos stated that in preparation for the activities of the 11th Brigade he had studied training manuals of various police forces, particularly those from Turkey, Nigeria, Korea, Germany and Israel. He added that they had also spoken to military police commanders who had overseen the operations at Carandiru and Eldorado dos Carajás, two of Brazil's most notorious massacres. Amnesty International has been informed that numerous legal experts, human rights activists and even members of the Federal Commission of Human Rights have questioned the creation of this force.

Providing security at community level

While Amnesty International has been concerned by the lack of institutional support for alternative and community based security projects, there are important advances in this area which show that they can offer concrete solutions. There are numerous alternative projects, across different states, which have worked in different ways to address the high levels of criminality and prevent violence in *favelas*. Recognizing the mutual distrust between communities and public security forces, they have sought, in different ways, to address the problem of security through the broad protection of rights, bringing together numerous actors and government bodies to work towards a solution.

During its research, Amnesty International was informed of a number of such projects, managing to visit only a few. They include community-based policing projects, policing based on problem solving and multi-sectoral approaches to violence prevention. Among those are the GEPAE policing project in the communities of Cantagalo and Pavão-Pavãozinho in Rio de Janeiro; the "Fica Vivo" project in Minas Gerais and the former municipal policing project in São Paulo. While not all these projects have been sustained, their initial successes, either through reductions in homicides or through community acceptance, seem to offer serious alternatives.

Members of Minas Gerais military police working with the Afro-Reggae group on the *Juventude e Policia* [youth and police] project. The project, coordinated with the *Centro de Estudos de Segurança e Cidadania* (CESEC), Center for Studies on Public Security and Citizenship, has used culture as a means of breaking the barriers between young people in *favelas* and the military police in Minas Gerais. © Ierê Ferreira / Afro-Reggae

In an article in daily newspaper, O Globo, two experts on public security issues, Julita Lemgruber, former police ombudswoman of Rio de Janeiro, and Ignacio Cano, described how the municipal government of Diadema, in the ABC industrial belt of São Paulo managed to reduce one of the highest national homicide rates by 47% in four years. Working closely with the judiciary, the public prosecutors office as well as the municipal guard and the military police, they identified violence hot-spots and targeted them, with policies such as controlling licensing hours of bars. Similarly, they targeted social investment projects in education, health, employment and sports directed at vulnerable youth groups. All these indicate that a targeted plan for violence prevention and reduction can be effective.

In Jardim Ângela, in the south of São Paulo, the "*Fórum Em Defesa da Vida*" (the forum in defence of life) has initiated a programme which includes regular meetings

of community representatives, social movements and members of the local church working closely with the authorities, including a community-based police project, to increase security in the community. Through this they have developed numerous social projects which have contributed to the reduction in levels of violence. Jardim Ângela, previously one of the most violent areas in the whole of Brazil, registered a decline in its homicide rate of 73.3 per cent between 1999 and 2004 according to a study by the Fundação SEADE.

11. Conclusion

Successive Brazilian governments have betrayed Brazil's socially excluded population. By consistently failing to address profound problems in the area of public security and protect the population's fundamental human rights, they have condemned millions of people to decades of violence. Police officers who have perpetrated human rights violations have largely committed their crimes with impunity. They have also succeeded in undermining the work of those police officers who have sought to uphold the law and protect the security and human rights of all citizens.

The promise of public security reform based on human rights principles, made by the government of President Lula, has served to set an important benchmark for genuine change. By offering both a detailed analysis of the problem and mechanisms for state and federal governments to implement reform, it has provided a tool to redress the years of neglect. However, political expediency has undermined the process of reform. While federal and state governments have made progress on disarmament, disarmament alone is not enough to resolve the epidemic levels of violence.

For too long, Brazil's socially excluded communities have been denied fundamental protection by the state, consigning them to a life of socio-economic deprivation, compounded by criminal and state brutality. The Brazilian government should challenge public misconceptions about crime and address the fact that violent and corrupt policing have not provided greater security but have in fact undermined it. Repressive measures have been justified in the name of combating crime, but they have contributed to further exclusion, alienation and violence. Long-term security cannot be based on measures that protect some people but exclude and repress others.

A genuine, sustainable reduction in violence requires the Brazilian government to set out a long-term, multi-sector plan to address the social and economic neglect which underlies violence and to guarantee protection of basic human rights. Effective and long term public security reform must be part of this process, to ensure human rights-based policing for all the population.

Recommendations

A National Action Plan to reduce and prevent criminal violence

The Brazilian federal and state authorities should create, implement and monitor a National Action Plan to reduce and prevent criminal violence, focussing on the prevention of homicides.¹¹⁵ As shown, homicides predominantly affect poor communities and as such have not been a priority of policy makers. This plan should involve the participation of all areas of government. This should include, but not be limited to, federal, state and municipal authorities responsible for, health, education, housing and employment as well as law enforcement.

It should be targeted to areas of most need and least state protection, and it should be subject to wide consultation. Civil society must be involved in the development and implementation of such a plan as well as being a key stakeholder in it. This plan should have clear timeline and monitoring mechanisms. It must also include:

1. Introduction of human-rights based policing

The plan must include public security reforms to create human rights-based policing, founded on international human rights standards, for all sectors of society, taking into consideration those stipulated in the National Public Security Plan of the federal government. To this end, municipal, state and federal governments should:

- Protect the human rights of police officers, allowing them to carry out their jobs effectively and safely. This should include, but not be limited to: the right to reasonable working hours, rest periods and paid holidays; right to enforceable health and safety regulations; right to remunerations sufficient to give a decent standard of living; the freedom of association and the right to a fair trial.
- Create a statutory Code of Ethics applicable to all police forces based on human rights standards, in particular the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Establish procedural codes, in compliance with the statutory Code of Ethics and based on human rights standards, related to the key functions of the police, including arrest and detention, public order, and criminal investigation.

¹¹⁵ These should be in line with the recommendations of the World Health Organization in their report on violence and health. World Health Organization, *World Report on Violence and Health 2002*, Geneva (see appendix)

- Improve data collection and provide analyses of patterns of violence; tailor effective human rights-based policing to these analyses.
- Identify, assess and promote good practice community security projects, which combine community-based policing projects with input from other sectors of the state. Ensure their survival and replication across the country, use them as a basis for training other police officers.
- Create community councils, concentrating initially on socially excluded communities, with representatives of the state police forces, public prosecution services and public defenders' services. These councils should provide a secure space for input into policing strategy and decision-making as well as an open forum for complaints and concerns.
- Make the transfer of funds from the federal fund for public security to states dependent on meeting key human rights benchmarks, such as a decline in police killings and torture.
- Oversee the introduction at federal and state level of fully independent and properly empowered internal and external oversight bodies to monitor the activities of both the state and federal police.

2. A concerted programme to reduce and prevent police killings

The Brazilian government should establish and implement a concerted programme to reduce the number of police killings. Federal and state governments should:

- Promote, publish and incorporate in law and practice UN standards for law enforcement officials including the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Retrain the police in the legitimate use of force and alternatives to the use of firearms according to international standards including the UN Code of Conduct for Law Enforcement Officers and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Establish strict laws and regulations consistent with international human rights standards to control the development and deployment of non-lethal or "less than lethal" weapons. Amnesty International recognises the importance of developing non-lethal or "less than lethal" force options to decrease the risk of death or injury inherent in the use of firearms or other impact weapons by law enforcement officers. It is essential, though, that such weapons are only used in appropriate situations and all officials are appropriately trained in the legitimate use of such equipment.
- Create an external investigation mechanism, dealing specifically with complaints involving the police, empowered, depending on the nature and seriousness of the complaint, to choose whether to supervise or to manage

investigations conducted by police investigation officers, or to carry out investigations using its own independent investigators;

- End the use of the designation "resistance followed by death" for victims of police interventions, to be replaced by a register of cases of police lethality. Independent investigation should be held into the case of every death suspected to be at the hands of public security forces.
- Suspend police officers under investigation for illegal or excessive use of force.
- Ensure full protection for all witnesses involved in cases where police officers are under investigation for illegal or excessive use of force.
- Publicly recognize and reward police officers, battalions and police stations that avoid use of force without compromising effectiveness.

3. Control Arms

The Brazilian federal government has made important advances in setting in motion mechanisms for the control of carrying of guns as well as proposals to control the sale of guns. Amnesty International calls on the federal government to:

- Participate in the international process to promote the principles of an Arms Trade Treaty based on international human rights and humanitarian law, in accordance with the recommendations of Oxfam, IANSA and Amnesty International's Control Arms campaign.
- Remove and destroy illegal and surplus arms that could contribute to violations of international human rights and humanitarian law and reinforce efforts to curb the illegal trade and transfer in arms.

4. The role of other governments

Foreign governments and inter-governmental organizations should:

- Support and promote the creation and implementation of a National Action Plan to reduce and prevent criminal violence, which is in accordance with international human rights standards and based on broad consultation within government and with civil society.
- Ensure that human rights or public security related projects supported by them fit in with the goals of such a National Action Plan.
- Participate in the process to promote the principles of an Arms Trade Treaty based on international human rights and humanitarian law in accordance with recommendations of Oxfam, IANSA and Amnesty International's Control Arms campaign.

Appendix 1.

World Report on Violence and Health 2002 World Health Organization

Summary of Recommendations:

The following recommendations aim to mobilize action in response to violence. All recommendations need to be addressed by a range of sectors and stakeholders if they are to achieve their objectives.

These recommendations must obviously be applied with flexibility and with proper understanding of local conditions and capacities. Countries currently experiencing collective violence, or with scarce financial and human resources, will find it difficult or impossible to apply some of the national and local recommendations on their own. Under such circumstances, they may be able to work with international organizations or non-governmental organizations operating within their borders that are able to support or implement some of the recommendations.

Recommendation 1. Create, implement and monitor a national action plan for violence prevention.

Recommendation 2. Enhance capacity for collecting data on violence.

Recommendation 3. Define priorities for, and support research on, the causes, consequences, costs and prevention of violence.

Recommendation 4. Promote primary prevention responses.

Recommendation 5. Strengthen responses for victims of violence.

Recommendation 6. Integrate violence prevention into social and educational policies, and thereby promote gender and social equality.

Recommendation 7. Increase collaboration and exchange of information on violence prevention.

Recommendation 8. Promote and monitor adherence to international treaties, laws and other mechanisms to protect human rights.

Recommendation 9. Seek practical, internationally agreed responses to the global drugs trade and the global arms trade.

Appendix 2

Firearm-related mortality rates by neighbourhood (per 100,000 inhabitants) in the municipality of Rio de Janeiro.

Source: Dowdney, LT, "Children of the Drug Trade: A Case Study of Organised Armed Violence in Rio de Janeiro", Viva Rio / ISER, 7 Letras, Rio de Janeiro, 2003

Firearms-related mortality rates by neighbourhood (per 100,000 in habitants) and drug faction dominated areas (Comando Vermelho / Comando Vermelho Jovem and Terceiro Comando / Amigos Dos Amigos) in Rio de Janeiro.

Source: Dowdney, LT, “Children of the Drug Trade: A Case Study of Organised Armed Violence in Rio de Janeiro”, Viva Rio / ISER, 7 Letras, Rio de Janeiro, 2003