

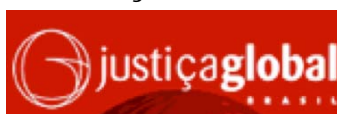


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A Follow-up Report
to the
UN Committee on Economic, Social and Cultural Rights
on

The Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence in Brazil

prepared by
the World Organisation Against Torture (OMCT)
with
Justiça Global



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Quando o morro lombra tá ligado que é aquilo
Preconceito me chamam de bandido
Um simples cidadão que vota trabalhador
Que cuida da família honesto sem caô.

*When there's trouble in the neighbourhood, you know how it is,
Prejudice labels me a criminal,
A simple citizen who votes, a worker,
Who looks after his family, honest, no kidding around.*

Fiell,¹ “788”

¹ Fiell is a rapper and human rights defender who lives and works in the *favela* of Santa Marta, Rio de Janeiro.

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1. Introduction

Addressing the links between violence and the denial of economic, social and cultural rights

This follow-up report has been produced in the context of the OMCT project “Preventing Torture and Other Forms of Violence by Acting on their Economic, Social and Cultural Root Causes” funded by the European Union’s European Initiative for Democracy and Human Rights, the Karl Popper Foundation, the InterChurch Organisation for Development Cooperation (ICCO) and the Foundation for Human Rights at Work.

This project is founded on the principle of the interdependence of human rights and seeks to develop human rights responses that address the links between poverty and marginalisation on the one hand, and torture and violence on the other.² If torture and cruel, inhuman or degrading treatment or punishment and other forms of violence – including violence against women and children – are to be effectively eliminated, then their economic, social and cultural root causes must be understood and effectively addressed.³ The converse equally applies: acting to reduce levels of violence in a given society is a fundamental step towards ensuring the widespread enjoyment of economic, social and cultural rights.

How the denial of economic, social and cultural rights is related to torture and other forms of violence

- *The poor, excluded and other vulnerable groups are often the first and most numerous victims of violence, including torture and cruel, inhuman and degrading treatment.*
- *Levels of violence in a given community or society can be such that individuals or groups are unable to enjoy their economic, social and cultural rights.*
- *Violence is inflicted on persons because they demand respect for economic, social or cultural rights – their own or those of others.*
- *Policies and programmes by governments, private actors or development and financial institutions can exacerbate poverty and inequalities and lead to increased levels of official, criminal and domestic violence.*

² See OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, www.omct.org. In his role as UN Special Rapporteur on the question of torture, Sir Nigel Rodley noted: “as long as national societies and, indeed, the international community fail to address the problems of the poor, the marginalized and the vulnerable, they are indirectly and, as far as the exposure to the risk of torture is concerned, directly contributing to the vicious circle of brutalization that is a blot on and a threat to our aspirations for a life of dignity and respect for all”, Interim Report of the Special Rapporteur of the Commission of Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/55/290, 11 August 2000, para. 37.

³ Of course, many other measures must be taken to eliminate torture in addition to addressing its economic, social and cultural root causes. These are dealt with in OMCT-sponsored alternative reports to the UN Human Rights Committee, the UN Committee Against Torture, the UN Committee on the Rights of the Child and the UN Committee on the Elimination of Discrimination Against Women.

The Alternative Report on Brazil

An important activity foreseen under OMCT's project involves working with UN Treaty Body Committees and the submission of alternative reports to assist their reflections.

On 6 and 7 May 2009, The Committee on Economic, Social and Cultural Rights considered the second periodic report of Brazil on the implementation of the International Covenant on Economic, Social and Cultural Rights. In order to support the Committee's work and to make available complementary information, the secretariat of the World Organisation Against Torture (OMCT) in Switzerland joined with Justiça Global and the National Movement of Street Boys and Girls (Movimento Nacional de Meninos e Meninas de Rua - MNMMR) in Brazil to develop an Alternative Report. This report - *The Criminalisation Of Poverty. A Report on the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence in Brazil* - was submitted for the Committee's consideration in April 2009.

In order to prepare this Alternative Report, a mission to the state of Pernambuco was carried out by MNMMR and OMCT from 9 to 15 February 2009. Justiça Global and OMCT subsequently carried out a mission in the city of Rio de Janeiro from 15 to 17 February. The resulting Alternative Report was not intended to offer an exhaustive appraisal of the denial of economic, social and cultural rights in Brazil. Rather, it addressed some of the key areas where there is a clear and direct link between violations of economic, social and cultural rights and violence, or the threat of violence in this country and offered recommendations in this regard.

At the heart of the Alternative Report is the assertion that violence is an inherent element of poverty in Brazil: it disproportionately affects the poorest communities, in urban and rural areas alike, and in turn reinforces this poverty. Furthermore, State actors engaged in law enforcement tend to "profile" the poor, and particularly the poor residents of Brazil's *favelas*, as "criminals". This identification is reinforced by media reports, and even statements by public figures. In turn, the criminalisation of the poor justifies public security strategies that violate a range of human rights, including the right to life, as police engage in arbitrary actions against *favela* residents, particularly young, black males. Identified as criminals by the police, the poor are at the same time also victims of crime, and organised gangs control much of the economic resources in Brazil's poor urban neighbourhoods.

The Alternative Report by Justiça Global, MNMMR and OMCT makes concrete recommendations as to how the Brazilian Government should address the issue of violence against its poorest and most vulnerable citizens (see appendix 5). Several of these recommendations – and particularly those dealing with policing strategies - are echoed in the programmatic actions proposed under Brazil's Third National Human Rights Programme (Programa Nacional de Deraitos Humanos – PNDH-3, Decree no. 7.037), approved on 21 December 2010 (see below).

Follow-up activities

OMCT's project on "Preventing Torture and Other Forms of Violence by Acting on their Economic, Social and Cultural Root Causes" not only foresees the production of alternative reports, but also includes provisions for follow-up missions to assess the progress of State parties in implementing the recommendations produced by UN

Treaty Body Committees. It was in this context that OMCT conducted a five-day follow-up mission to Brazil from 14 to 19 March 2010. The purpose of this mission was twofold: to assess developments in the enjoyment of economic, social and cultural rights in the light of the Committee's recommendations to the Government of Brazil following the submission of the State Party's second periodic report – and in particular those recommendations most closely linked to the issue of violence in Brazilian society - and to assist in the launch and dissemination of the Alternative Report on Brazil prepared by OMCT, Justica Global and MNMMR in April 2009.

This follow-up mission was carried out in Rio de Janeiro by a representative of OMCT, with important support provided by the staff of Justiça Global. The mission schedule is reproduced in appendix 1 to this report. Appendix 2 provides details of the launch of the report and the associated public debate, appendix 3 reproduces the statement by OMCT at this event, and appendix 4 provides examples of media coverage.

2. Working with the Committee's recommendations

At the end of its 42nd session, having considered Brazil's second periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights and submissions from civil society and UN bodies, and after two days of dialogue and discussion with representatives of the Government of Brazil, the Committee on Economic, Social and Cultural Rights issued a series of important and wide ranging concluding observations and recommendations. A number of these recommendations are particularly relevant to the theme of the Alternative Report produced by Justiça Global, MNMMR and OMCT. Under paragraph 8, for example, the Committee expresses its deep concern at,

the culture of violence and impunity prevalent in the State party. In this regard, the Committee is concerned about reports that human rights defenders, including those assisting individuals and communities in asserting their economic, social and cultural rights, are threatened, harassed and subjected to violence, frequently by private militias commissioned by private and public actors. The Committee is also deeply concerned about the reports of the failure of the Brazilian authorities to ensure the safety of human rights defenders and to prosecute those responsible for committing such acts.

This in turn leads the Committee to recommend that,

the State party take all necessary measures to combat the culture of violence and impunity prevalent in the State party and to ensure the protection of human rights defenders against any violence, threats, retaliation, pressure or any arbitrary action as a consequence of their activities. The Committee recommends that the State party improve its human rights training for law enforcement officials, especially police officers, and ensure that all allegations of human rights violations are promptly and thoroughly investigated by an independent body capable of prosecuting perpetrators.

The Committee again explicitly addresses the issue of violence in expressing its concern that, "negative gender roles persist, including the representation of women as sex objects and the traditional stereotypes of women in the family and in society, and that these may render women more vulnerable to domestic and other forms of violence". Under paragraph 14, it urges the Government of Brazil to,

enforce its legislation on gender equality, and to take all effective measures, including through the use of media and education, to overcome the traditional stereotypes regarding the status of women in the public and private spheres and to ensure, in practice, equality between men and women in all fields of life [...].

The Committee also raises the issue of domestic violence, recommending in paragraph 21 that,

the State party strengthen measures to combat violence against women and its effects by, inter alia: (a) effectively enforcing the existing legislation on domestic violence; (b) strengthening public awareness campaigns against domestic violence; and (c)

strengthening support for victims of domestic violence in order to ensure their access to adequate services for recovery, counselling and other forms of rehabilitation.

Likewise, the Committee is concerned at, “the prevalence of sexual abuse of and violence against children, particularly girls, and at the absence of information on measures taken to address this phenomenon or to assist child victims of abuse”. Among its recommendations, it urges the Brazilian Government to, “implement its measures against child sexual abuse, especially the abuse of girls, through, *inter alia*, monitoring, reporting, prosecution as well as through information campaigns targeting parents, communities and children” (para. 22).

Regarding the harassment and, indeed, murder of trade union leaders, in paragraph 17 the Committee, “recommends that the State party take adequate measures to ensure the protection of trade union members and leaders from all forms of harassment and intimidation and thoroughly investigate reports alleging any form of violence”.

The Committee also echoes concerns contained in the Alternative Report regarding the land reform process and the demarcation of land belonging to indigenous peoples, calling on the Government to “expeditiously complete the process of demarcation and allocation of indigenous land” (para. 9). It is equally concerned about the persistent inequalities in economic conditions and associated social injustice prevailing in Brazil and calls on the State party to, “intensify its efforts to reduce inequalities and social injustice between different regions, communities and individuals” (para. 10). The Committee also recommends that the State party, “take all appropriate measures to address the discrepancy between the life expectancies and poverty levels of the black and white population groups through a sharper focus on health and poverty eradication programmes for the former” (para. 11).

Other issues raised by the Committee in its concluding observations that are relevant to the issue of violence in Brazilian society and the criminalisation of poverty include the persistence of racial inequalities in access to employment (para. 16), the high number of people employed in the informal economy (para. 19), the limitations of the Family Grant Programme (*Bolsa Familia*) (para. 20), the widespread nature of child labour (para. 23), the vulnerability to abuse and exploitation of children living on the street (para. 24), and the large number of people living in precarious urban settlements (para. 25).

The Committee’s recommendations are intended to ensure that every Brazilian citizen enjoy his or her full range of rights as laid out in the Covenant on Economic, Social and Cultural Rights. While the obligation to implement these recommendations lies squarely with the Government of Brazil, Brazilian civil society, with the support of international partners, assumes the task of monitoring this implementation and updating the Committee on the progress made.

The focus of the follow-up mission

Given the limited time available, the OMCT follow-up mission to Brazil was necessarily selective in the issues that it chose to address and in its geographic coverage. It therefore focused in particular on the Committee’s recommendation that, “the State party take all necessary measures to combat the culture of violence and impunity prevalent in the State party and to ensure the protection of human rights

defenders against any violence, threats, retaliation, pressure or any arbitrary action as a consequence of their activities.”

As regards this “culture of violence and impunity”, the Alternative Report described how criminalisation of poverty in Brazil is both produced by, and serves as a justification for, a form of law enforcement based on social profiling and the identification of a “typical” suspect. Policing of this nature promotes indiscriminate violence over impartial investigation, and armed confrontation over community dialogue. Brazil’s poorest and most marginalised communities live with the daily risk of being caught up in acts of lethal violence at the hands of the police. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions in his report on Brazil indicates that the police are responsible for one out of every five killings in the country.⁴ The police have also been involved in several high-profile militarised operations in the poorest areas of Brazil’s cities which, despite proving to be highly ineffective,⁵ have received the public support of President Lula’s administration.⁶

In light of this phenomenon, and given the Committee’s clear statement concerning the “culture of violence” in Brazil, the follow-up mission traced recent developments in the policing of Rio de Janeiro’s *favelas* and examined, in particular, the nature and effectiveness of an initiative that sees the establishment of *Unidades de Polícia Pacificadora* (UPPs) – or Police Pacifying Units - in selected areas.

The decision to focus on this issue reflects a number of concerns on the part of OMCT and its national partners. First, Rio de Janeiro is traditionally regarded as Brazil’s “test laboratory” for public security, and initiatives deemed to function in this city are likely to be exported to other urban areas in the country. Secondly, contact with residents of *favelas* where UPPs have been introduced and with civil society organisations representing these residents suggests that there are significant human rights concerns regarding this initiative in its current form. Thirdly, with little critical perspective, the UPP initiative is being hailed as a success in both the national and international media (see, for example, “Brazil’s battle for shanty town residents” from the BBC⁷). Finally, in the coming years Brazil, and Rio de Janeiro in particular, will host two of the world’s largest sporting events: the FIFA Football World Cup in 2014 and the Olympic Games in 2016. Both call for significant infrastructure developments and, as the Committee on Economic, Social and Cultural Rights has observed in the

⁴ Alston, Philip (2008) “Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Addendum. Mission to Brazil”, UN Doc. A/HRC/11/2/Add.2, 23 March 2009.

⁵ Alston described them as “murderous and self-defeating”.

⁶ To take just one notable example, the Complexo do Alemão in Rio de Janeiro was the scene of a major police operation on 27 June 2007, which saw a 1,450-strong contingent of police and security force personnel engage in an 8-hour anti-gang operation in the streets of the neighbourhood. In the course of the operation, 19 civilians were killed and at least 9 were wounded. A total of 12 weapons were confiscated – significantly fewer than the number of civilian deaths. For further details, see Alston, Philip (2008) “Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Addendum. Mission to Brazil”, UN Doc. A/HRC/11/2/Add.2, 23 March 2009.

⁷ Duffy, Gary, “Brazil’s battle for shanty town residents”, 4 February 2009, <http://news.bbc.co.uk/2/hi/americas/7870395.stm>

case of the Olympic Games in Athens (2004)⁸ and Beijing (2008),⁹ events on this scale can involve significant human rights abuses, in particular in connection with forced evictions. The media attention generated by these events, together with the national prestige and commercial interests at stake also put significant pressure upon municipal, state and federal authorities to ensure the safety of the many thousands of spectators who will travel to Brazil, and this too may have serious implications for those Brazilian citizens who, for the simple fact that their poverty forces them to live in the country's *favelas*, risk being targeted for arbitrary and violent action on the part of Brazil's police forces, and the military police in particular. A precedent already exists: the massive military-style operations in a number of *favelas* in 2007 are said to be closely linked to Rio de Janeiro's hosting of the Pan American Games in the same year (the most notorious such operation, in Complexo do Alemão, took place some three weeks prior to the opening of the Games).

In addition to examining the human rights impact of the UPP initiative, this report provides updated information on militia control of *favelas* in Rio de Janeiro and attacks against human rights defenders and social movements. It also examines a recent municipal initiative called *Choque de Ordem* intended to "clean" the city of Rio. A separate section provides a selective overview of the recently approved Third National Human Rights Programme, which addresses a wide range of issues, including inequality and poverty in Brazilian society and police violence.

⁸ E/C.12/1/Add.97, 7 June 2004, §21 & 43.

⁹ E/C.12/1/Add.107, 13 May 2005, §31.

3. Unidades de Polícia Pacificadora

According to the Rio de Janeiro State Secretariat for Security, UPPs represents a new model of public security and policing based on closer cooperation between the police and the population of certain areas associated with high levels of drug-related crime and, more recently, militia activity. The Secretariat for Security explains that, “[t]oday, UPPs represent an important ‘arm’ of the Government of the State of Rio and of the Security Secretariat for taking back territories lost to drug trafficking and for promoting the social inclusion of the most disadvantaged section of society.”¹⁰

Introduced in November 2008, UPPs are founded upon the idea of community police acting as a bridge between the population of selected areas of the city and the public security entities. The permanent presence of a community police unit in the neighbourhood is accompanied by a strengthening of the socio-economic infrastructure in these areas, using funds from the *Programa de Aceleração do Crescimento* (PAC), which was created in 2007 to stimulate the country’s economic growth (see Alternative Report, chapter 3).

The community police who serve in UPPs are drawn from the military police. A policy encourages recently trained officers to join this initiative in an attempt to break a dangerous institutional mould (it is the military police who are responsible for the majority of police violence and killings in Brazil’s urban areas). Recruits to the UPP receive a supplement to the notoriously low salary of the military police. The Government of Rio de Janeiro is also investing R\$ 15 million (or US\$ 8.43 million, April 2010 rates) in the Police Academy with the aim of having some 60,000 trained police in the State by 2016. It is intended that 3500 new police officers will be assigned to UPPs by the end of 2010.¹¹

The establishment of UPPs is necessarily preceded by more “traditional” police operations to “secure” a neighbourhood and so permit the permanent presence of the community police. Thus, for example, Santa Marta, one of the *favelas* to have received a UPP, initially saw a violent police action in November 2008 to wrest the neighbourhood from the control of the Comando Vermelho drug gang.

To date, UPPs have been set up in the communities of Morro Santa Marta (Botafogo – Zona Sul); Cidade de Deus (Jacarepaguá – Zona Oeste), Jardim Batam (Realengo – Zona Oeste), Pavão-Pavãozinho/Cantagalo (Zona Sul), Morro da Babilônia e Chapéu Mangueira (Leme – Zona Sul) e Tabajaras e Cabritos (Copacabana-Zona Sul). The State Secretariat for Security explains that the UPP initiative has thus far focused on smaller *favelas*, particularly in the wealthy area of Zona Sul, because the State of Rio does not yet have at its disposal sufficient personnel to introduce this initiative in the larger *favela* areas in other parts of the city.

In December 2009, the newspaper *O Globo* reported that since the introduction of a UPP in Cidade de Deus in November 2008, homicide rates have dropped by more than 82 per cent (down from 34 killings between 10 November 2007 and 10 November 2008 to 6 killings between 11 November 2008 and 11 November 2009).

¹⁰ “Conceito UPP: A Polícia Da Paz”, 8 September 2009, <http://upprj.com/wp/?p=753>

¹¹ Ibid.

Likewise, in Morro Dona Marta (Santa Marta), in the year from 18 November 2007 three killings were registered, while in the 12 months from 19 November 2008, there were no such cases. At the same time, the confiscation of drugs in both communities has increased markedly: by 550 per cent in Cidade de Deus and 100 per cent in Dona Marta.¹² President Luiz Inacio Lula da Silva, visiting Santa Marta in February 2009, commented that, “In the past it was only the police intervening with lots of brutality which punished the guilty and the innocent - very often only the innocent. Now we have police there, who are becoming a community police force.”¹³

In terms of services and infrastructure, Santa Marta – which is made up of some 1370 homes - has received an official electricity supply, a crèche and a football pitch. A number of houses that were structurally unsound have been replaced and some have been given brightly painted facades. Many houses have also been assigned a civic number. The steepest favela in Rio de Janeiro, Santa Marta has also had a funicular railway constructed to carry residents (and also tourists) to its uppermost reaches.

¹² Vera Araújo, Criminalidade despensa na Cidade de Deus e no Dona Marta, favelas ocupadas por UPP, 5 December 2009, <http://oglobo.globo.com/rio/mat/2009/12/05/criminalidade-despenca-na-cidade-de-deus-no-dona-marta-favelas-ocupadas-por-upp-915073086.asp>

¹³ Duffy, Gary, “Brazil’s battle for shanty town residents”, 4 February 2009, <http://news.bbc.co.uk/2/hi/americas/7870395.stm>

4. Assessing the Unidades de Polícia Pacificadora

The UPP concept corresponds partially – but only partially - to a number of the recommendations produced by Justiça Global, MNMMR and OMCT in their alternative report to the Committee on Economic, Social and Cultural Rights. These include recommendations to the Government of Brazil to:

- improve conditions of employment in the police services to discourage police corruption and take firm steps to eradicate the illegal practice of *bico* (second jobs to round up wages);
- ensure that state governments, and especially the state government of Rio de Janeiro, eschew large-scale police operations against organised gangs in favour of systematic and planned progress, in full respect of human rights, in reasserting a sustained police presence and government authority in gang-controlled areas;
- Likewise, within the limits of the law, and in full respect of human rights, take firm and decisive steps to dismantle the network of militias that control economic resources and services in many poor urban neighbourhoods;
- Invest in training for the federal, civil and military police alike, and ensure that all police officers and penitentiary agents are educated in human rights, including the human rights of women, and in community policing techniques. In particular, raise awareness among the police of the economic, social and cultural rights, as well as the civil and political rights of Brazil's poorest citizens.

While welcoming the steps taken toward these goals, it is important to bear in mind – and this observation is clearly made in the Alternative Report – that the Government of Brazil has often demonstrated its capacity to develop innovative legislation and programmes, but has struggles time and time again to implement these measures and to make them work on the ground for the benefit of its citizens. In the case of Rio de Janeiro's UPPs, a number of important concerns were raised by civil society in the course of the follow-up mission, as well as by representatives of the residents of Santa Marta during a visit to this community.

The selection and funding of UPPs

Santa Marta, like Babilônia and Chapéu Mangueira, and Pavão-Pavãozinho and Cantagalo - also designated UPPs - lies close to Rio's prestige neighbourhoods as well as some of the city's best-known tourist sights. Indeed, the State Security Secretariat has explicitly acknowledged that together these three UPPs form a "new security corridor" along the coast, from Leme to Ipanema Beach.¹⁴ The selection of neighbourhoods to receive UPPs is, therefore, based above all on policing and security concerns rather than human rights principles or socio-economic priorities. Observers have also pointed to Santa Marta's relatively small size, its steep topography and limited number of access points, all factors that make it a good strategic choice for police occupation. Another UPP, Cidade de Deus, shares none of these characteristics, however it is suggested that its selection was prompted by the *favela*'s international fame – or notoriety – as a result of the film of the same name.¹⁵

¹⁴ "Juntas, as três passaram a formar um novo corredor de segurança ao longo da orla, do Leme à praia de Ipanema", "Pavão-Pavãozinho | Cantagalo", 8 September 2009, <http://upprj.com/wp/?p=749>

¹⁵ *Cidade de Deus*, 2002, directed by Fernando Meirelles.

Recently, Jose Mariano Beltrame, Rio's State Secretary for Security, has announced that he is in negotiations with the private sector in order to circumvent the bureaucratic hurdles that hamper the establishment of new UPPs and speed up the process. The link between the UPP initiative and the forthcoming World Cup would appear to be confirmed by the announcement that the Brazilian Football Confederation (Confederação Brasileira de Futebol - CBF) will invest R\$ 1.8 million (US\$ 1.02 million) in the construction of a UPP station in Cidade de Deus, while a tobacco company is said to be ready to invest in a new UPP in Ladeira dos Tabajaras, another initiative in the city's wealthy Southern Zone.¹⁶

At the same time, even with the involvement of the private sector (with the inevitable concerns this will raise regarding the influence of private interests on public security policies), and despite the investment being made in police personnel, it is all but impossible for the city to find the massive resources that would be necessary to implement UPP projects in all of Rio de Janeiro's 800 or so *favelas*. Sources from the Secretariat for Security indicate that the cost of obtaining satellite information necessary for UPP operations in Santa Marta alone runs to some R\$ 1 million per year (US\$ 567000).¹⁷ Indeed, Secretary Beltrame has explicitly indicated that the introduction of UPPs does not mean the end of the kind of violent police incursions into the city's *favelas* that are documented in detail in the Alternative Report. Rather he views these approaches as two complementary elements of the city's policing strategy.¹⁸

Lack of meaningful community consultation

It is reported that meaningful consultation on the part of the authorities has generally been lacking in Santa Marta and that the decision to establish a UPP in this area was taken without full discussion with the community. Similarly there was little or no consultation with residents regarding the infrastructure developments in the neighbourhood. The construction of a 634-metre wall along the perimeter of Santa Marta in 2009 is a particular source of community resentment (around the world, the construction of walls has rarely proved to be conducive to the enjoyment of human rights). Justified by the authorities as a means of controlling the physical expansion of the neighbourhood, it is regarded by residents as emblematic of a strategy of control and containment. Community leaders ask whether the budget for this wall might not have been better spent on school or health facilities (there is currently no clinic in Santa Marta). Community leaders in Santa Marta also claim that promised funds (in particular funds for cultural events and activities) have never materialised.

Rising cost of living

The physical improvements to the Santa Marta neighbourhood – together with the increased levels of security – have created a number of socio-economic difficulties for

¹⁶ Marcio Allemand, "Rio conta com apoio da iniciativa privada para construção de UPPs", *Jornal do Commercio*, 26 March 2010, http://www.jcom.com.br/noticia/121419/Rio_conta_com_apoio_da_iniciativa_privada_para_construcao_de_UPPsIbid.

Sourced from <http://www.governo.rj.gov.br/noticias.asp?N=57639>

¹⁷ Ibid.

¹⁸ See, for example, Duffy, Gary, "Brazil's battle for shanty town residents", 4 February 2009, <http://news.bbc.co.uk/2/hi/americas/7870395.stm>

the residents of the area. Santa Marta is conveniently located in the wealthy Southern Zone (Zona Sul) of the city, which also includes areas such as Copacabana, Ipanema and Batafogo, in which Santa Marta is situated. With the improvements to Santa Marta, the area is becoming a target for land and property speculation, and real estate values are said to be rising as a result. Similarly the provision of electricity (the residents previously drew power from the grid unofficially by means of illegal connections or “*gatto*”) has seen household bills rise significantly. Given that residents of the *favelas* are among Brazil’s poorest citizens, there is a real risk that many, beginning with the most vulnerable and excluded, will be forced to leave Santa Marta in search of cheaper housing in other parts of the city.

Human rights abuses by the police

One of the most important concerns voiced regarding UPPs was in relation to the role of the community police, which the State Secretariat for Security has identified as central to UPP policy. As noted, members of the community police are drawn from the ranks of the military police, and particularly from among the newer recruits. The military police in Brazil demonstrate a distinct organisational “culture” and have a particularly violent record. Moreover they are poorly paid, poorly trained and entrance requirements are low (recruits need only have completed *ensino fundamental*, the first nine years of schooling under the Brazilian system). Policing is considered less a profession than a means to earn a regular, if modest, wage. Inevitably, many police officers become involved in corruption at various levels. It is therefore not surprising that the military police are viewed with suspicion and fear by the residents of the country’s *favelas*, and that this same suspicion and fear is in turn directed at the community police.

The permanent presence of the community police has gone some way to reduce the community’s concerns, however certain patterns of institutional behaviour persist.¹⁹ This is most obvious in the arbitrary actions and continued abuse of power on the part of the police, which in turn suggests a lack of awareness of, or a lack of interest in, the civil rights of community members. Justiça Global has compiled a list of “Cases of Arbitrary Police Action Against Residents of the Santa Marta Community”. These include arbitrarily stopping and searching community members, harassment, abusive language, physical assault and arbitrary detention. Abusive police actions are directed in particular at young black men from the neighbourhood. On 2 May 2009, it is reported that the community police arbitrarily stopped and searched “Fiell”, a rapper who is recognised as an important human rights defender due to his involvement with human rights organisations and his openness to dialogue with the local community police. During the search, described as “painstaking”, witnesses report that the police stated that, “You’re looking to stir up shit (*você é muito cheio de marra*) and we already know who you are. You’re causing trouble in the neighbourhood and making an issue of things.” The officers are then reported to have said that, “You’re lucky that we belong to the community police, otherwise we’d dump you where you belong”.

Gay, lesbian and transvestite members of the community have also complained of police persecution and harassment. One gay man who reported being physically

¹⁹ During a visit to Santa Marta in the course of the follow-up mission, a community police car carrying four officers pulled up. One officer got out holding his unholstered service pistol in his hand. Small episodes such as this serve as a constant reminder of the deadly force associated with Brazil’s police and do little to help distinguish the community police from the military police.

assaulted by the police indicated that, “they beat me because they said that the ‘fag’ (*veado*) had to die”. A lesbian community member reports that members of the military police “were threatening me, saying that they would deal with me (*vão acabar comigo*), that I would never have what they have [...]”.

Civil society’s response to arbitrary police action in Santa Marta

Concern at the actions of the community police and at the vulnerability of the community members of Santa Marta to arbitrary police action has prompted a coalition of several civil society organisations, including Justiça Global and the Association of Residents of Santa Marta, to develop the *Cartilha Popular do Santa Marta. Abordagem Policial* (The Santa Marta People’s Handbook. Addressing the Police). This short and simple pocket-sized publication sets out every Brazilian citizen’s rights vis-à-vis the police and explains in clear terms “what the police can and can’t do”, and how to behave in given situations, including police body, car and house searches. It underlines the rights of lesbian, gay, bisexual, transvestite and transsexual citizens. It also sets out the steps to making a complaint against the police and provides a number of useful contacts, both governmental and non-governmental. The handbook was launched in Santa Marta on 18 March 2010: free copies were distributed to residents and examples were delivered to the local police station. This initiative will be extended to other *favelas* in the city.

Repression of cultural activity

The introduction of UPPs is also associated with the repression of certain activities that have developed as a specific expression of identity in Rio de Janeiro’s *favelas*. In particular *funk carioca* (Rio funk), a distinct musical product of the *favelas* that has grown rapidly in popularity in recent years, is undergoing active repression at the hands of the police, much in the same way that both *samba* and *capoeira* were targeted by the authorities in the past. Under a law intended to control large scale raves (law no. 5265/2008), the police began to target typical *favela* parties at which the music – principally *funk carioca* – is produced by the residents of the *favelas* themselves. This law was revoked in September 2009, however today in Santa Marta it is illegal to promote parties at which *funk carioca* will be played as a result of a prohibition coming directly from the Captain of the police in Santa Marta. Much as *faveladas* – *favela* residents – have come to be equated to criminals in the perception of the police and, indeed, of a large part of Brazilian society, so too *funk carioca* has come to be closely associated with drug trafficking. There have even been reports of police harassing young children because their haircuts or clothes suggest that they are followers of *funk carioca*. Parties and festivities after 10pm in Santa Marta have also been forbidden – a prohibition that leaves the police broad scope for the interpretation of this rule and of what constitutes a “party”. Similar measures have been taken in the UPP in Cidade de Deus.

The collective perception of favelas

A final observation regarding the UPP initiative relates to its conceptual underpinnings. In Brazil, *favelas* have traditionally been regarded as “problem” areas housing “problem” populations and, as such, while unquestionably situated *in* the city, they have not been understood to be *of* the city. As a consequence, *favela* communities have been excluded from urban socio-economic life in both public discourse and policies. The perception of the *favelas* as a dangerous problem has also driven security strategies based on military-style incursion operations, often with the

aim of neutralising a specific target (an individual, a gang, an arms store or a drugs cache), followed by retreat. In recent years this logic has culminated in the police *mega-operações* such as that on 27 June 2007 in the Complexo do Alemão in Rio de Janeiro (documented in chapter 4 of the Alternative Report). This operation alone involved more than 1,300 men from the military and civil police and soldiers from the *Força Nacional* and resulted in the deaths of 19 civilians and the wounding of 9 others, including children. Many observers point to the fact that UPPs simply represent a variation on this theme – another attempt to occupy and control Rio’s *favela* areas rather than to valorise their identity and recognise their contribution to urban life. Indeed, it has been pointed out that the perception of the *favelas* as hostile environments is implicit in the very choice of the word “*pacificadora*” applied to the police units installed in Santa Marta and other areas.²⁰ The sociologist Luiz Antonio Machado Da Silva of the Universidade Candido Mendes and the Federal University of Rio de Janeiro argues that, “The simple idea that these areas need to be pacified indicates that the residents, as a whole, are viewed with extreme mistrust, whether it be by the rest of the urban population, or by the institutions responsible for maintaining public order”.²¹ The result of this mistrust is that the role of the residents of Rio’s *favelas* as legitimate participants in public debate remains very limited.

²⁰ Ironically, “*pacificador*” is also another name given to the feared “*caverão*” or armoured car used by BOPE (the Battalion for Special Police Operations) to carry out actions in the *favelas* of Rio de Janeiro. Supposedly reserved for special operations, these vehicles are reported to have logged 2200 hours of *official* use in 2007, or some 6 hours per day, statistics that suggest that the deployment of the “*pacificador*” in *favela* communities is in fact a routine strategy. Playing on the vehicle’s name, residents of the city’s *favelas* joke bitterly about the “*passa e fica a dor*” – “it passes and it hurts”.

²¹ “A simples idéia de que estas áreas precisam ser pacificadas indica que os moradores, em conjunto, são vistos com extrema desconfiança, seja pelo restante da população urbana, seja pelas instituições de manutenção da ordem pública.” Luiz Antonio Machado Da Silva, “Afiml, Qual É A Das Upps?”, March 2010, p. 4.

5. Additional issues of concern

Militia control of favelas in Rio de Janeiro

The Alternative Report relates that in the last five to six years, another oppressive element in the lives of Brazil's urban poor has emerged, in particular in Rio de Janeiro but also in other urban areas across the country. Ostensibly, the rise of informal or semi-formal militias has taken place in response to public fears concerning "criminality", however, in practice these organisations are driven by strong economic interests. Composed of police and ex-police, together with prison guards, firefighters and others, Brazil's militias occupy a grey area. Technically illegal, but in practice long-tolerated, they enjoy a symbiotic relation with the police. Indeed, police operations against gangs in poor urban areas have often created a power vacuum that militias have filled and, once a militia group has assumed control of a neighbourhood, the police will not confront their "colleagues". On the pretext of providing security and "protection", the militias establish their own structures to exploit poor communities – engaging in extortion, taking over supplies of gas and the provision of cable television and the running of internet points. Control of local transport services is said to be a particularly lucrative activity for militias. In 2005, it was estimated that more than 100 poor urban communities were under militia control in the city of Rio de Janeiro.

Although pitted against each other, militias and organised criminal gangs alike represent the violent appropriation of the public space and the economic resources of Brazil's urban poor by non-State actors. Ironically – given their negative impact on the enjoyment of the economic, social and cultural rights of Brazil's poor urban residents – militias regularly conduct their operations from a *centro social* in the neighbourhood, which becomes a physical symbol of their domination of the community. It was also reported that areas of the city of Rio that are controlled by militias tend to attract young people in search of "employment opportunities" with these groups.

Since the submission of the Alternative Report in April 2009, there have been a number of high-level arrests of militia leaders in Rio de Janeiro, especially in the Western Zone (Zona Oeste) of the city. These arrests have, in particular, involved leaders of the Justice League, a powerful militia that has in the past offered violent resistance to the authorities' attempts to combat its activities. Other militia leaders have been killed in disputes between rival groups. It is reported that while these developments have weakened the highest level of militia control, the economic power base of these organisations remains relatively intact. Consequently, these organisations continue to exploit many of Rio de Janeiro's poorest citizens.

Militia leaders have been arrested on a range of criminal charges, however at present involvement in a militia does not in itself constitute a crime. Marcelo Freixo, State Legislator and President of the Human Rights Commission of the Rio de Janeiro Legislature – and who, as reported in the Alternative Report, was also President of Rio de Janeiro's Legislative Assembly's Parliamentary Commission of Inquiry into militias - has presented a proposal to criminalise militia activity and membership.

Attacks against human rights defenders and social movements

The Alternative Report also discussed the strategies employed by the police and the justice system in Brazil to criminalise social movements and human rights defenders who seek to protect and promote the human rights of the poor, of women, of black Brazilians, of indigenous peoples and of quilombola communities.²² Many of the organisations that attended the one-day workshop in Recife for the preparation of the Alternative Report considered that they were targeted by the State for their engagement in human rights, a claim that was echoed by the representatives of a number of civil society organisations in Rio de Janeiro. Brazil's Third National Human Rights Programme, approved in December 2009 and discussed below, includes a specific strategic objective of guaranteeing the protection of human rights defenders and their activities.

When asked about the present situation as regards violence against human rights defenders and social movements, representatives of civil society in Rio de Janeiro indicated that they considered that there has been no improvement in this situation.

State legislator Marcelo Freixo (see above) who, as reported in the Alternative Report, was also President of Rio de Janeiro's Legislative Assembly's Parliamentary Commission of Inquiry into militias, participated in the launch of the *Cartilha popular do Santa Marta* during the follow-up mission. He continues to live under police protection. The report of the Commission of Inquiry, submitted to the State Government in December 2008, contains the names of 225 individuals suspected of links with militia organisations.

The Alternative Report also indicated that beyond Brazil's urban centres, violence against human rights defenders and social movements and the process of criminalization is most clearly observable in the struggle to ensure access to land, address inequalities in land distribution and contest poorly planned agrarian reform. The impact of violence against land activists is exacerbated by the persistence of high levels of impunity: the judiciary is frequently subject to external influences and the police are reluctant to investigate such cases. In many situations, State officials who attempt to apply the rule of law themselves become victims of abuses aimed at preventing the establishment of State authority in remote rural areas. The Pastoral Land Committee (Comissão Pastoral da Terra – CPT) indicates that of 1237 killings of rural workers between 1985 and 2001, only 102 were ever brought to trial.²³ Violence against the landless is particularly pronounced in the North and North East of the country, although it is reported that violent episodes receive little or no media coverage. Indeed, the Movimento dos Trabalhadores Rurais Sem Terra (MST) underlines the strong links between Brazil's agroindustrial interests and the country's media.

²² Quilombolas belong to ethnically or racially distinct groups whose origins are in part linked to communities formed by slaves who escaped from captivity prior to the abolition of slavery in 1888. They are characterised by a strong cultural identity, attachment to their customs and traditions, and commitment to maintaining their way of life. These communities have distinct links to specific territories.

²³ Cited in "Onde houver luta social haverá tentativa de criminalização", in *Jornal dos Trabalhadores Rurais Sem Terra*, Year 28, No. 301, March 2010, p. 5.

MST recognises that the repressive methods used against it are evolving and that, while there has been a reduction in direct violent against its members, there has been an increase in institutional initiatives to criminalise their actions, including through charges of corruption brought against them. In December 2009, a Parliamentary Commission of Inquiry (Comissão Parlamentar Mista de Inquérito -CPMI) was set up in the National Congress to investigate allegations that MST has used public funds to support its mobilisation activities. MST has indicated that four of the parliamentary deputies who voted in favour of the establishment of a CPMI received financial donations from Sucocítrico Cutrale, a corporation that dominates Brazil's citrus juice market.²⁴

Choque de Ordem

Choque de Ordem (literally “shock” or “impact of order”) is a four-year initiative introduced in January 2009 by the Prefect of Rio de Janeiro in the Southern, Western and Central Zones of the city and in the area of Grande Tijuca. This initiative, explicitly aimed at “cleaning” the city – in large part for the benefit of tourists - is intended to address various dimensions of the “illegitimate” occupation of urban space. As such, it targets commercial activities deemed illegal, properties occupied without authorisation and housing constructed without appropriate permits. It also aims to clear these areas of the city of persons living on the street and informal traders. This operation is backed by the State Government, which is providing police officers to support the 1,500 municipal agents assigned to the initiative.

The human rights community is currently expressing concern regarding the implications of *Choque de Ordem*. Issues identified by civil society include the economic impact on informal traders - who effectively risk losing their livelihood - and the aggressive behaviour of police and municipal agents engaged in *Choque de Ordem* operations.²⁵ Questions also remain as to whether persons living on the street in fact receive appropriate care under the initiative and whether those who are evicted from housing are provided with adequate alternative accommodation.

²⁴ MST, “Deputados favoráveis à CPI do MST receberam doações da Cutrale” 26 October 2009, <http://www.mst.org.br/node/8460>

²⁵ OMCT has drawn the Committee's attention to the human rights implications of a similar situation in Kenya. In Nairobi, the poorest traders must make regular payments to municipal guards or face physical violence and confiscation of their goods.

6. The Third National Programme for Human Rights

The Third National Programme for Human Rights (Programa Nacional de Direitos Humanos – PNDH-3, Decree no. 7.037), approved in December 2009, provides a wider-ranging and ambitious framework for the promotion of human rights in Brazil in the coming years. It is based explicitly on the universality, indivisibility and interdependence of all human rights, and as such gives comprehensive consideration to not only civil and political rights, but also economic, social and cultural rights and environmental rights. It contains a comprehensive range of human rights objectives and accompanying programmatic actions, several of which are consistent with the Committee’s recommendations. The aim of this section of the follow-up report is not, however, to provide an exhaustive analysis of the PNDH-3, but rather to draw attention to certain characteristics that are particularly relevant in the present context.

In his introduction to the Programme, the President of Brazil, while charting important steps taken to promote the enjoyment of human rights, acknowledges that, “very serious questions continue to challenge the public powers [...] as well as organised civil society.” Significantly, many of these questions relate to issues discussed in the Alternative Report:

*I am referring to the violence that still demonstrates alarming levels in the large cities; child prostitution; the persistence of slave labour and child labour; heavy over population and degrading conditions in our prisons; the practice of torture; elitist culture apparent in resistance to the rights of quilombolas and indigenous persons and in attacks on affirmative action; and criminalisation of social movements in certain states of the Federation.*²⁶

The PNDH-3 is constructed on the basis of six principal thematic: 1) “democratic interaction between State and civil society”; 2) “the development of human rights”; 3) “universalizing rights in the context of inequality”; 4) “public security, access to justice and fighting violence”; 5) “human rights education and culture”; and 6) “the right to memory and truth”. The measures of most relevance to the links between poverty and inequality on the one hand and violence on the other are principally dealt with under thematic 3) and 4).

“Universalizing human rights in the context of inequality”

The introduction to thematic 3 reiterates the position adopted in the Alternative Report that violence and inequality in Brazil are intimately related: “To inequalities is added the persistence of discrimination, which often manifests itself in the form of violence against subjects that have been made vulnerable historically and structurally.”²⁷ Among the strategic objectives identified under this thematic (and for each objective there is a set of programmatic actions), the PNDH-3 addresses: access to adequate food by means of structural policies; guaranteeing access to land and housing for low income populations and socially vulnerable groups; access to quality education and guaranteeing school retention; guaranteeing decent, adequately paid

²⁶ Secretaria Especial dos Direitos Humanos da Presidência da República, *Programa Nacional de Direitos Humanos*, Brasília, 2010, p.13.

²⁷ “Às desigualdades soma-se a persistência da discriminação, que muitas vezes se manifesta sob a forma de violência contra sujeitos que são histórica e estruturalmente vulnerabilizados.”, *ibid.*, p. 52.

work carried out in conditions of equity and safety; combating and preventing slave labour; and guaranteeing equal access to political life.

The same thematic deals with the promotion of the human rights of children and adolescents, including protecting the rights of the most vulnerable children and adolescents, and addressing sexual violence against children and adolescents. Other groups vulnerable to structural inequalities are also addressed under thematic 3. Thus there are actions directed at promoting equality and protection for Brazil's population of African descent (see, in particular, chapters 2 and 3 of the Alternative Report), including the development of programmes to combat institutional and structural racism, the production of disaggregated statistics concerning access to education, work and health services, the development of indicators to inform public policies, and the introduction of programmes to give greater value to the cultural heritage of Brazilians of African descent. This thematic also specifically addresses the situation of quilombolas (see, for example, chapter 8 of the Alternative Report), calling for a strengthening of existing mechanisms for recognising quilombolas communities and guaranteeing their specific rights. There are, likewise, actions to promote the human rights of indigenous communities (also chapter 8 of the Alternative Report), many of which are intended to protect and reinforce their specific cultural identities. Crucially, there is also a programmatic action to, "Ensure the integrity of indigenous lands, to protect and promote indigenous peoples' way of life". Responsibility for this measure lies with the Ministry of Justice, in partnership with the National Indigenous Foundation (Fundação Nacional do índio –FUNAI). Finally, thematic 3 also deals with the promotion of the rights of women, including the development of affirmative action to ensure that they enjoy their full rights as citizens, and public awareness raising concerning the national and international instruments protecting women. Of particular significance in the context of the Alternative Report (see chapter 7) are the programmatic actions aimed at increasing financing for shelters for women in vulnerable situations, and at giving priority to addressing the situation of women victims of domestic violence in councils administering housing and social funds.

"Public security, access to justice and fighting violence"

Thematic 4, which represents a substantial part of PNDH-3, brings a new and necessary dimension to Brazil's national human rights programmes. The introduction to this thematic recognises that, "[l]ongstanding problems, such as [...] practices that involve abuse of authority and police violence against vulnerable groups and the corruption of public security agents call for reforms that are both urgent and profound."²⁸ The measures proposed under this thematic, aimed at "a significant reform of the policing model"²⁹ not only are fruit of contributions received in the context of Brazil's 11th National Human Rights Conference, but also draw upon a body of comments and critiques provided by specialists and researchers in this field.³⁰

Among the concerns addressed under this thematic is the modernisation of the public security system, for which the PNDH-3 calls for a revision of the structure, training, monitoring, engagement and disciplinary regimes of the organs of public security, with the aim of increasing their capacity to fight crime and protect the rights of citizens. As regards the prevention of violence and criminality, the Programme calls

²⁸ Ibid, p.105.

²⁹ Ibid.

³⁰ Ibid.

for increased control of firearms, and an improvement in the standard of criminal investigation. It also calls for the strengthening of instruments for the prevention of violence, including the introduction of tighter controls on private security companies, the development of guidelines for community policing and the dissemination of good practices, and the initiation of a public debate on alternative models for addressing drug use and drug trafficking.

Under the strategic objective of “reducing violence motivated by differences of gender, race or ethnicity, age, sexual orientation and situations of vulnerability”, PNDH-3 requires a number of important programmatic actions. Given that these are particularly significant in the context of the Alternative Report, they are here set out in full:

- Strengthening the action of the Federal Police in combating and investigating crimes against human rights;
- Raising the awareness of groups in situations of vulnerability of support services, relevant activities developed by security organs and institutions, and complaint mechanisms, as well as indicating how these can be used;
- Developing and establishing an integrated national system for the notification of violence among health, social assistance and education networks;
- Promoting education campaigns and research with the aim of preventing violence against persons with disabilities, the elderly, women, indigenous persons, persons of African descent, children, adolescents, lesbians, gays, bisexuals, transsexuals, transvestites and persons living on the street;
- Strengthening Federal Police units specialised in indigenous conflicts and ensuring that they act in conjunction with FUNAI, particularly in cases where the process of land demarcation is marked by violence;
- Encouraging training and capacity building courses concerning the traditional cultures of indigenous peoples and on legislation related to indigenous issues among all police bodies, and principally for the military and civil police, especially in states and municipalities where indigenous settlements are located close to urban centres;
- Strengthening mechanisms to combat violence against the indigenous population, and especially for indigenous women who are victims of psychological or sexual violence or of harassment;
- Supporting the implementation of the National Pact for Addressing Violence Against Women (Pacto Nacional de Enfrentamento à Violência contra as Mulheres) as set out in the state public security plans and in conformity with the Maria de Penha law (law no. 11.340/2006);
- Evaluating the implementation of the Maria de Penha law on the basis of data on types of violence, aggressor and victim;
- Strengthening strategic actions for the prevention of violence against youths of African descent;
- Establishing a policy for the prevention of violence against the population living in the streets, including actions to build the capacity of the police in the area of human rights;
- Promoting, together with civil society, the institutional structures to implement the Plan of Action for Addressing Violence Against the Elderly (Plano de Ação para o Enfrentamento de Violência contra a Pessoa Idosa);

- Encouraging the establishment of a service to receive and process complaints of violence against the elderly in all states of the Federation;
- Building the capacity of education and health professionals in identifying and notifying crimes and cases of violence against the elderly and against persons with disabilities;
- Implementing actions for the promotion of the citizenship and human rights of lesbians, gays, bisexuals, transsexuals, and transvestites with focus on the prevention of violence, guaranteeing integrated support networks.

With a view to combating institutional violence, eradicating torture and reducing deaths at the hand of the police and in prison, thematic 4 of the PNDH-3 gives special attention to the establishment of independent police watchdogs oversight mechanisms and standardised operational procedures to prevent incidents of abuse of authority and institutional violence, while also offering measures to ensure greater safety to police officers and prison guards. This thematic includes a set of five general recommendations (ie without identifying ministries or branches of government with specific responsibility for their implementation) for Brazil's states, federal districts and municipalities:

- ending the use in police registers, police incident reports and formal police investigation procedures of generic expressions such as “autos de resistência”, “resistência seguida de morte” (“acts of resistance” and “resistance followed by death”: see chapter 4 of the Alternative Report) in cases involving persons killed by the police;
- creating mechanisms to ensure that all cases involving deaths during police actions are examined by a jury;
- preventing the archiving of cases involving lethal police actions without a forensic report having been prepared;
- ensuring the obligatory use of identity badges by military police and municipal guards; and
- recommending to states and the Federal District that representative of FUNAI follow the registration of police incident reports involving indigenous persons when this is requested by the interested party.

Thematic 4 also envisages the creation of a federal system that brings together the currently diverse structures that are intended to protect victims and witnesses, human rights defenders, and children and adolescents under threat (see chapter 7 of the Alternative Report). It also includes five specific programmatic actions aimed at the protection of human rights defenders, for which the President of the Republic's Special Secretariat for Human Rights has direct responsibility. Again, given their relevance for the Committee's recommendation on the culture of violence in Brazil, these actions are here reproduced in full:

- strengthening the implementation of the National Programme for the Protection of Human Rights Defenders, guaranteeing to defenders safety in the case of violence, threats, retaliation, pressure or arbitrary action, and defence in the case of judicial actions instigated in bad faith (a defesa em ações judiciais de má-fé) in the execution of their activities;
- coordinating between the State organs for public security and human rights in order to guarantee the security of human rights defenders;

- training staff in the public security and justice systems concerning the work of human rights defenders;
- establishing partnerships with State and Union public defenders for the judicial defence of human rights defenders in legal actions instigated against them; and
- disseminating nationally information of the activities of human rights defenders and militants in such a way as to give rise to a culture of respect and value for their role in society.

Furthermore, under thematic 4, the NPDH-3 calls for improvements in the prison system and the use of alternative forms of sentencing (chapter 6 of the Alternative Report). Finally, it reaffirms the central importance of access to justice for all, including in the case of agrarian or urban conflict.

The challenge of implementation

Given that Brazil's Third National Programme for Human Rights is wide ranging, the actions it proposes are often of a very general nature. To take just one example, under the objective of strengthening economic rights by means of public policies, the plan includes among the programmatic actions, "guaranteeing universal access to essential public services of quality". It identifies the Ministries of Health, Education, Mines and Energy, Social Development and the Fight Against Hunger, and Cities, as the responsible elements of Government for overseeing this broad action. It does not, however, providing any details as to how this laudable, but extremely broad goal should be achieved.

It is in the generality of the actions identified and in the lack of concrete guidance on how to implement these actions that one of the Programme's principal weaknesses lies. The nature of the PNDH-3 means that it is of fundamental importance that the ministries responsible for each action develop appropriate practical measures to ensure its effective implementation. It is this fundamental step that has often proven to be beyond the capacity of the Government - Federal, state and local - in Brazil, with the result that well-formulated policies and programmes fail to bring about significant change on the ground. The challenge is particularly great when it comes to achieving "a significant reform of the policing model", a model that is deeply entrenched in the institutional practice of Brazil's police forces, and of the military police above all. In short, a significant effort must be made at all levels of government in Brazil to ensure that the PNDH-3 does not become an empty text, abstracted from the daily reality of discrimination, exclusion and violence experienced by many of Brazil's poorest citizens. Without this commitment, the "very serious questions" identified by the President of the Republic in the introduction to the National Programme will remain just that.

Conclusions and recommendations

*Então é isso meu parceiro 788 é o numero de degraus
Aqui é Santa Marta Rio de Janeiro
Comunidade chapa quente
Comunidade onde as pessoas luta para sobreviver ta ligado
Precisa mais de oportunidade
Precisamos mais de incentivo cultura educação e lazer
Essa é parada irmão.³¹*

Fiell, “788”

While Brazilian legislation and policies are often sufficiently progressive in terms of their respect for human rights that they are held up as international examples, in many cases their application and implementation remain disappointing or even problematic. Thus apparently enlightened programmes and projects turn out to possess an inherently oppressive dimension. This is the case, for example, with many of the large infrastructure projects promoted under the *Programa de Aceleração do Crescimento*, introduced in 2007, which have provoked high levels of social protest, met in turn by high levels of violence. Despite the “model *favela*” rhetoric promoted both by the State and Federal Government, Rio de Janeiro’s UPP initiative also appears to risk revealing an oppressive dimension.

The UPP concept marks an attempt on the part of the State Government of Rio de Janeiro to integrate policing strategies and socio-economic development in some of the country’s most disadvantaged urban areas. It is undeniable that the introduction of UPPs has been accompanied by a marked drop in violence in the areas selected (at least following the initial police action to take control of these neighbourhoods). At the same time, the establishment of UPPs has been far from unproblematic: the consultation that guarantees their democratic nature is reported to be lacking and in some cases even absent; the improvements to the physical infrastructure and security in neighbourhoods that host UPPs have inflated the cost of living and encouraged real estate speculation, threatening to marginalise and exclude many of the most vulnerable residents; and the nature of policing in these areas still leaves much to be desired. Officers of the community police appear to be ill-prepared to break away from the institutional vision of the *favelada* as problematic, or, indeed, criminal element, and instead to treat him or her as a citizen, with the rights – and responsibilities – this entails. On the basis of the information it has gathered, Justiça Global concludes that,

considering the number of reports and complaints made in the course of little more than a year of activity of the Unidade Pacificadora [in Santa Marta], it is becoming clear that these distinct events cannot be

³¹ So it’s like this my friend, 788 is the number of steps
Here in Santa Marta, Rio de Janeiro,
Hot tin community,
Community where people struggle to survive, you know how it is,
We need more opportunity,
We need more incentives, culture, education and recreation,
That’s how it is brother.

*understood as isolated cases but rather form part of a systematic practice of abuse and disrespect on the part of the police stationed in that community.*³²

Ultimately, the difficulties associated with the UPP initiative derive from the absence of a fully developed human rights-based approach in the conception and application of the UPPs. Areas that receive UPPs are identified on the basis of security concerns and economic interests rather than comprehensive human rights assessments. Indeed it is likely that many of those citizens most vulnerable to human rights abuses – that is, residents of large *favelas* and peripheral developments – will never benefit from the UPP initiative. They do, however, run the risk of falling victim to the State of Rio's continued policy of violent armed intervention by the military police. Similarly, within areas that have received UPPs, the defining paradigm appears to be based on security concerns rather than human rights standard and the transparency, consultation and participation that this would imply. Residents of Santa Marta have succinctly captured the paradox of Rio's new "model" *favelas*: "Paz sem voz não é paz, é medo" – "peace without a voice isn't peace, it's fear".

The lack of a solid foundation that a human rights-based approach would provide characterises many socio-economic and security initiatives in Brazil. This is not to say that human rights are neglected, but rather that they often appear to be taken into account as an afterthought rather than an essential starting point.

The UPP initiative has received significant positive media attention in Brazil and elsewhere, and it will certainly be extended to other neighbourhoods, particularly in light of the preparations for the World Cup and Olympic Games. This makes it all the more important that civil society remains vigilant concerning the human rights situation in areas that host UPPs, that the State Government of Rio de Janeiro, with the support of the Federal Government, takes immediate steps to address human rights concerns and, indeed, that international bodies, including the UN Treaty Bodies, do not take the "success" of this initiative at face value. The same goes for Rio de Janeiro's *Choque de Ordem* initiative which, without full accountability, risks becoming a one-dimensional strategy for clearing the city of "unwanted" elements: Brazil's most marginalised and vulnerable citizens.

Regarding the PNDH-3, there must be a concerted effort at all levels of government in Brazil to ensure that this document does not simply remain a set of good intentions with minimum impact on the life of Brazil's citizens. Indeed, the Minister of the President of the Republic's Special Secretariat for Human Rights, Paulo Vannuchi, acknowledges that the efforts to develop this Programme mean little without effective implementation when he concludes the preface to the PNDH-3 by stating that, "The challenge is now to make it concrete".³³

Recommendations

On the basis of these observations and the information gleaned during the OMCT follow-up mission, a number of recommendations for both the Government of Brazil

³² Justiça Global, "Casos de Ação Policial Arbitrária Contra Moradores da Comunidade Santa Marta", p.7.

³³ "O desafio agora é concretizá-lo", Secretaria Especial dos Direitos Humanos da Presidência da República, *Programa Nacional de Direitos Humanos*, Brasília, 2010, p.13.

and the UN Committee on Economic, Social and Cultural Rights have been developed. These are intended to be complementary and in addition to those recommendations developed by Justiça Global, MNMMR and OMCT in the Alternative Report and which are reproduced here in appendix 5.

To the Government of Brazil:

1. Ensure that preparations for the forthcoming World Cup and Olympic Games hosted by Brazil do not involve in any way human rights abuses against Brazilian citizens, either associated with forced evictions to make way for necessary infrastructure, or with public security operations;
2. Place the protection and promotion of human rights at the very heart of the UPP initiative in Rio de Janeiro by ensuring, *inter alia*,
 - a revision of the selection criteria for areas to receive UPPs based on transparent human rights assessments;
 - the full and meaningful participation of all citizens affected by these operations at every stage;
 - community consultation concerning the nature of socio-economic investments in UPP areas;
 - comprehensive human rights training for all members of the community police prior to their being stationed in a UPP and appropriate disciplinary measures for those found to be abusing their authority;
 - the introduction of socio-economic measures to guarantee that residents are not forced to leave their neighbourhoods as a result of increased household expenses or rising real estate values associated with the establishment of UPPs;
 - appropriate and effective control over the influence of private sector investment in Rio de Janeiro's UPPs; and
 - the celebration rather than repression of cultural manifestations associated with the *favelas* of Rio de Janeiro.
3. Introduce legal prohibitions on militia activity and membership, and use these instruments as a means to dismantle militia control of poor urban neighbourhoods in Rio de Janeiro, in the full respect of human rights.
4. Adopt comprehensive strategies for the protection of human rights defenders, including defenders of economic, social and cultural rights, together with ending impunity for violations affecting them and unambiguously articulate support for activities in defence of human rights.
5. Adopt similar strategies for the protection of participants in social movements together with ending impunity for violations affecting them. Ensure that social movements are not criminalised in their legitimate pursuit of their goals.
6. Ensure that the *Choque de Ordem* initiative in Rio de Janeiro and other similar initiatives are carried out in the full respect of human rights and that the municipal agents involved are fully trained in human rights. Provide data concerning *Choque de Ordem* operations, including on the rehousing of citizens in precarious situations and care for persons living on the street.

7. Oversee the full and effective implementation of the measures included in the Third National Human Rights Programme.

To the UN Committee on Economic, Social and Cultural Rights:

1. In light of the forthcoming World Cup and Olympic Games hosted by Brazil, remain vigilant regarding any human rights violations these may entail, including with respect to forced evictions, and carry out a country visit to Brazil for a full examination of this question.
2. Seek further information concerning the UPP and *Choque de Ordem* initiatives currently being promoted in the city of Rio de Janeiro and make a critical examination of their human rights implications.
3. Encourage the Government of Brazil to oversee the full and effective implementation of the measures included in the Third National Human Rights Programme.

Appendix 1: Follow-up Mission Schedule

Sunday 14 March

OMCT consultant arrives in Rio de Janeiro

Monday 15 March

Preliminary meetings with Justiça Global staff and drafting of press article regarding CDESCR recommendations and the launch of the alternative report.

Tuesday 16 March

Substantive meetings with Justiça Global staff and meeting with Tomas Ramos, Human Rights Commission of the Legislative Assembly of the State of Rio de Janeiro (ALERJ).

Wednesday 17 March

Meeting with Joba Alves of Movimento dos Trabalhadores Rurais Sem Terra (MST); preparations for report launch.

Thursday 18 March

Meeting with Patricia Oliveira of Rede Contra a Violência; visit to Santa Marta and launch of the *Cartilha Popular do Santa Marta*.

Friday 19 March

Launch event for the alternative report and public debate with representatives of Justiça Global, MNMMR, Grupo Tortura Nunca Mais and OMCT at the Federal University of Rio de Janeiro, attended by some 60 to 70 persons.
OMCT consultant departs Rio de Janeiro.

Appendix 2: Launching the report

The report on “The Criminalisation of Poverty” was officially launched on 19 March in the Auditorium Manuel Maurício de Albuquerque in the Centre for Philosophy and Human Sciences of the Federal University of Rio de Janeiro (see invitation below). The launch, attended by some 60 to 70 members of the public, saw an open debate preceded by presentations by Cecília Coimbra (Tortura Nunca Mais), Rafael Dias (Justiça Global), Michael Miller (OMCT) and Eulange Souza (MNMMR). The debate was chaired by Vitória Grabois. The presentation made by OMCT is reproduced in appendix 3 of this report. Media reports of the launch are included in appendix 4.

Copies of the Alternative Report are available in both English and Portuguese, and in both paper and electronic formats (visit www.omct.org). Justiça Global is leading the dissemination of the report in Brazil, while OMCT is responsible for dissemination elsewhere.

OMCT, Justiça Global e MNMMR

Convidam para

Lançamento do relatório A Criminalização da Pobreza

Debate:

- Cecília Coimbra - GTNM-RJ
- Michael Miller – OMCT
- Rafael Dias - Justiça Global
- Representante MNMMR

Data: 19/03 (sexta-feira) às 9:30h
Local: Auditório Manoel Maurício
CFCH-UFRJ
**Campus Praia Vermelha. Av. Pasteur,
250 - Urca**

Apoio:  



A CRIMINALIZAÇÃO DA POBREZA
Relatório sobre as Causas Econômicas, Sociais e
Culturais da Tortura e Outras Formas de Violência no
Brasil

The cover of the report depicts the hand of eight-year-old Matheus Rodrigues. In 2008, Matheus was leaving his house in the Maré *favela* in Rio de Janeiro when he received a shot to the head from a police rifle. He fell to the ground holding a 1 Real coin that his mother had given him to buy bread.

Appendix 3: OMCT presentation at report launch, 19 March 2010

Colegas, amigas e amigos, gostaria de agradecer a presença de todos neste lançamento do relatório sobre a criminalização da pobreza e as causas econômicas, sociais e culturais da tortura e outras formas de violência no Brasil.

A violência ligada à pobreza e desigualdade está presente em todas as sociedades do mundo. No caso do Brasil, esta violência é um elemento muito visível: ela afeta desproporcionalmente as comunidades mais pobres, tanto nas áreas urbanas quanto nas rurais, e, por sua vez, agrava ainda mais esta pobreza. É impossível pensar na pobreza, na desigualdade e no gozo dos direitos econômicos, sociais e culturais em geral no Brasil sem abordar a questão da violência. Em suma, a violência no Brasil não é incidental à pobreza e à desigualdade, mas um elemento diretamente correlacionado a estes fenômenos.

Este relatório foi produzido no contexto do projeto da Organização Mundial Contra a Tortura (OMCT) “Prevenindo a Tortura e Outras Formas de Violência por meio de Ação nas suas Causas Econômicas, Sociais e Culturais”, um projeto de três anos financiado sobretudo pela “Iniciativa Européia pela Democracia e Direitos Humanos” da União Européia.

Um componente muito importante deste projeto foi a preparação dos relatórios conhecidos por “alternativos” para ajudar o trabalho dos comitês de direitos humanos das Nações Unidas. Este relatório é um deles.

Assim, nos dias 6 e 7 de maio de 2009, o Comitê de Direitos Econômicos, Sociais e Culturais analisou o segundo relatório periódico do Brasil sobre a implementação do Pacto Internacional dos Direitos Econômicos, Sociais e Culturais em Genebra. Com o objetivo de apoiar o trabalho do Comitê e fornecer informações adicionais, o secretariado da OMCT na Suíça uniu-se à Justiça Global e ao Movimento Nacional de Meninos e Meninas de Rua (MNMMR) no Brasil, para elaborar este relatório alternativo, o qual foi submetido para apreciação do Comitê em abril de 2009.

Em sua fase preparatória, uma missão foi realizada pela MNMMR e OMCT no estado de Pernambuco em fevereiro de 2009. Em seguida, a Justiça Global e OMCT realizaram uma missão na cidade do Rio de Janeiro.

Hoje estou muito feliz por participar neste lançamento oficial do relatório, o produto do nosso trabalho coletivo. Queria expressar a minha gratidão aos meus colegas, amigas e amigos que trabalham na Justiça Global e MNMMR, e também aos especialistas e ativistas de Pernambuco e do Rio que dedicaram seu tempo para passar todo o conhecimento e experiência antes, durante e depois das missões preparatórias. Gostaria também de estender meus sinceros agradecimentos às muitas vítimas de violência com as quais tive a oportunidade de conversar e ouvir suas histórias, demonstrando coragem, força e comprometimento à causa.

Gostaria de brevemente dizer algumas coisas sobre o conteúdo do nosso relatório:

Ser pobre não significa apenas lutar para obter serviços de educação e saúde adequados ou para encontrar trabalho remunerado no setor formal; mas também é

enfrentar o risco constante ou repercussões da violência em casa ou nas ruas. Por sua vez, esta violência agrava a exclusão social – crianças têm medo de ir à escola, comunidades são forçadas a deixar seus territórios, a falta de oportunidades incentiva os jovens a se envolverem no tráfico de drogas e em outras atividades ilegais.

Além disso, os atores estatais responsáveis pela segurança tendem a estereotipar os pobres, e particularmente os moradores das favelas, como “criminosos”. Tal identificação é reforçada por relatos da mídia e até mesmo por afirmações de figuras públicas. Assim, homens e mulheres, “manchados pelo crime associado à área onde residem”,³⁴ não conseguem encontrar trabalho.

A sua vez, a criminalização dos pobres tem justificado estratégias de segurança pública que violam uma gama de direitos humanos, inclusive o direito à vida, tendo em vista que a polícia promove ações arbitrárias contra os moradores das favelas, em especial jovens negros. Identificados como criminosos pela polícia, os pobres são, ao mesmo tempo, também vítimas de facções criminosas; e gangues organizadas controlam a maior parte dos recursos econômicos nos bairros urbanos pobres do Brasil.

O nosso relatório examina as ligações entre, por um lado, a tortura e a violência e por outro, a pobreza e a desigualdade sob vários pontos de vista:

Primeiro, examina a violência policial contra os pobres e como a criminalização da pobreza serve como justificativa para uma forma de segurança baseada no “enquadramento social” e na identificação de um suspeito “típico”.

Segundo, o relatório fala de controle das Milícias sobre as áreas urbanas pobres, notadamente no Rio de Janeiro.

Terceiro, o relatório examina o sistema prisional como elemento fundamental para perpetuar a ligação entre pobreza e violência no Brasil e alimentar o fenômeno da criminalização dos pobres.

Depois, tem um capítulo sobre a situação das mulheres nas comunidades pobres, mulheres quem não são apenas mais vulneráveis à violência, mas também são suscetíveis a experimentar tal violência de formas específicas ao seu gênero.

E, finalmente, o relatório fala das estratégias adotadas pela polícia e o sistema de justiça no Brasil para criminalizar os movimentos sociais e os defensores de direitos humanos que buscam proteger e promover os direitos humanos dos pobres, das mulheres, dos afro-brasileiros, dos povos indígenas e das comunidades quilombolas.

Este relatório apresenta uma série de recomendações para reduzir a violência no Brasil e para aumentar o gozo dos direitos econômicos, sociais e culturais. Eu não vou entrar em detalhes mas vou transmitir a vocês algumas das medidas específicas que os indivíduos e comunidades para quem a pobreza e a violência são características da

³⁴ Alston, Philip (2008) “Promoção e Proteção de Todos os Direitos Humanos, Civis, Políticos, Econômicos, Sociais e Culturais, Incluindo o Direito ao Desenvolvimento. Relatório do Relator Especial sobre Execuções Extrajudiciais, Sumárias ou Arbitrárias, Philip Alston, Adendo, Missão ao Brasil”. UN Doc. A/HRC/11/2/Add.2, 23 de março de 2009, nota de rodapé 10.

vida cotidiana consideram que deveriam ser tomadas para reduzir a violência, especialmente a violência do Estado. Claro, eles sugerem a inclusão de uma dimensão de direitos humanos clara e efetiva no treinamento policial e o encorajamento do uso de armas não-letais na apreensão de suspeitos. Mas o foco primário da discussão sobre modos de reduzir a violência é, sobretudo, o respeito aos direitos econômicos, sociais e culturais. Eles argumentam que suas comunidades seriam lugares menos perigosos de viver se os moradores não fossem perseguidos pela discriminação e, ao invés disso, tivessem acesso à educação de qualidade e à possibilidade real de encontrar trabalho bem remunerado no setor formal. Em muitos casos, a legislação necessária está em vigor ou a política apropriada existe no papel para promover este desenvolvimento – o desafio é garantir que a sua implementação seja efetiva e que os benefícios dessas medidas sejam sentidas por todos os cidadãos brasileiros.

Obrigado.

Appendix 4: Media reports

Relatório sobre “criminalização da pobreza no Brasil” é lançado por organizações da sociedade civil no Rio

Por Eduardo Sá, 19.03.2010

Fazendo Media



Da esquerda para a direita: Eulange Souza (MNMMR), Cecília Coimbra (Tortura Nunca Mais), Michael Miller (OMCT), Vitória Graboís (mediadora), Rafael Dias (Justiça Global).

Foto: Leandro Uchoas/Fazendo Media.

Organizações da sociedade civil lançaram hoje (19/03), na Universidade Federal do Rio de Janeiro (UFRJ), o relatório “A Criminalização da Pobreza no Brasil”, sobre as causas econômicas, sociais e culturais da tortura e outras formas de violência no país.

O trabalho custou três meses de pesquisa, nele são traçados detalhes entre a desigualdade social e a violência no país. A violência policial contra os pobres, o controle das milícias sobre áreas urbanas pobres, o perfil da população carcerária, a violência contra as mulheres e os defensores de direitos humanos e movimentos sociais também são alguns dos temas abordados.

O projeto, financiado pela União Europeia por meio de organizações internacionais, foi preparado pela ONG Justiça Global, junto ao Movimento Nacional de Meninos e Meninas de Rua (MNMMR) e a Organização Mundial Contra Tortura (OMCT). O conteúdo do relatório alternativo foi submetido à 42ª Sessão do Comitê de Direitos Econômicos, Sociais e Culturais das Nações Unidas em maio de 2009, para a elaboração de políticas de direitos humanos na entidade.

“Ser pobre não significa apenas não obter serviços de educação e saúde adequados, ou trabalho, mas também sofrer violência em seus territórios e suas casas envolvendo a exclusão. Há uma estereotipagem dos pobres como criminosos através da mídia e até autoridades públicas, fazendo com que pessoas, em especial os jovens negros, sejam estigmatizadas pelo local onde moram”, afirmou Michael Miller, um dos diretores da OMCT.

Uma das soluções apontadas no relatório é a diminuição da violência nos territórios mais afetados pela força policial e a potencialização cultural e econômica desses locais. O treinamento policial mais adequado, encorajando o uso de armas não letais, e a possibilidade real de acesso à educação de qualidade e a boa remuneração no setor formal, ao invés da discriminação, também são alternativas apresentadas no relatório.

No processo de produção ocorreram missões em Pernambuco e no Rio de Janeiro. Segundo Eulange Souza, integrante do MNMMR, Recife foi escolhido por ser uma das regiões mais violentas do país onde as crianças e adolescentes sofrem diretamente com essa situação. “A apresentação do relatório ao Comitê Internacional foi muito importante, porque levou à tona a situação dos moradores de rua e dos meninos, é um instrumento muito bom contra a violência no Brasil”, afirmou Eulange.

Quanto ao Rio de Janeiro, é apresentada uma lista completa das 19 vítimas da mega-operação da polícia no Complexo do Alemão em 2007 e os destaques da mídia sobre o uso excessivo da força policial no estado. Para Rafael Dias, pesquisador da Justiça Global, há um extermínio contra os pobres na cidade, sob a justificativa da guerra às drogas. O pesquisador também destacou o surgimento da milícia através do aparato estatal no Rio de Janeiro, e criticou a visão positiva no exterior e da mídia sobre as Unidades de Polícia Pacificadora (UPP's) instaladas em algumas favelas. As UPP's, segundo ele, suprimem vários direitos dos moradores.

A presidente do Grupo Tortura Nunca Mais, Cecília Coimbra, foi quem fechou o lançamento do relatório. A psicóloga afirmou que existe hoje uma naturalização da pobreza, numa sociedade cada vez mais controlada por um modelo neoliberal globalizado em que as pessoas clamam cada vez mais por leis duras, policiamento extensivo, dentre outros mecanismos, para sua própria segurança. Na sua visão, a tortura se sistematizou em nosso país, ainda ocorrem desaparecimentos, há muito controle, legitimando iniciativas de tutela dos pobres e vitimização de outras camadas da sociedade. “Há uma produção histórica de ligar o pobre ao crime, conferindo-lhe uma essência perigosa, a produção de um inimigo interno, aquele que não é humano”, complementou Cecília.

Na conclusão do material, que tem 102 páginas e será distribuído para algumas organizações, consta que “a discriminação no Brasil tem muitas dimensões, incluindo gênero, cor de pele, etnia, local de residência status-sócio econômico(...) O fenômeno da criminalização, alimentado em parte por representantes da mídia e declarações de alguns oficiais e políticos, contribui para abusos arbitrários e recorrentes dos pobres nas mãos da polícia, pontuados muitas vezes por episódios intensos de violência letal e indiscriminada, direcionada contra comunidades inteiras”.

Entidades lançam relatório sobre a criminalização da pobreza

Documento foi enviado à ONU como alternativa ao documento oficial do Brasil

No último dia 19, ocorreu no Auditório Manoel Maurício, no campus da Praia Vermelha, o lançamento de um relatório sobre a criminalização da pobreza no Brasil. Produzido pelo Movimento Nacional de Meninos e Meninas de Rua (MNMMR), pela Organização Mundial Contra a Tortura (OMCT) e pela Justiça Global, a publicação foi enviada à Organização das Nações Unidas (ONU) como documento alternativo ao relatório oficial do país sobre a implantação do Pacto Internacional dos Direitos Econômicos, Sociais e Culturais. O evento teve apoio da decania do Centro de Filosofia e Ciências Humanas (CFCH) e do Núcleo de Estudos de Políticas Públicas em Direitos Humanos (NEPP-DH) da UFRJ.

Representante da OMCT, Michael Miller observou que a violência está presente em todas as sociedades do mundo. No caso brasileiro, porém, atinge as comunidades mais pobres de forma desproporcional, tanto no campo como na cidade. “E agrava a pobreza ainda mais”, disse. A conclusão foi fruto de um trabalho de três anos, financiado por diversas entidades internacionais, como a “Iniciativa Européia pela Democracia pela Democracia e Direitos Humanos”. No Brasil, a Organização Mundial contra a Tortura aliou-se ao MNMMR e à Justiça Global para realizar o estudo que se transformou no relatório. Foram ouvidos especialistas, ativistas, organizações ligadas aos direitos humanos e vítimas da violência.

“Ser pobre não significa apenas não ter oportunidade no setor formal de trabalho, mas também enfrentar o risco constante da violência, em casa ou nas ruas. Por sua vez, a violência agrava a exclusão social”, afirmou Michael. Além disso, no ponto de vista do representante da OMCT, os órgãos estatais responsáveis pela segurança tendem a estereotipar os pobres, particularmente os moradores de favelas, como criminosos. Situação que é reforçada por relatos da mídia e por afirmações de figuras públicas. “Assim, mulheres e homens ficam marcados pelos crimes nas áreas onde residem e não conseguem trabalho”, esclareceu. O palestrante disse que o relatório apresenta uma série de recomendações para aumentar o gozo de direitos econômicos, sociais e culturais por parte da população mais pobre. Em muitos casos, de acordo com Michel Miller, a legislação ou a política apropriada já existem para promover esse desenvolvimento, mas faltam os mecanismos para garantir a efetividade da lei.

Professora da UFF destaca fenômeno da “vitimização”

Presidente do Grupo Tortura Nunca Mais-RJ e professora da UFF, Cecília Coimbra afirmou que não queria falar só da criminalização da pobreza, mas do que chamou de fenômeno da “vitimização” da sociedade: “Nós somos controlados e pedimos cada vez mais controle. Em nome da segurança, pedimos policiamento ostensivo, leis mais duras... É bom ficarmos alertas, pois somos atravessados por essas forças cada vez mais intolerantes que estão aí no mundo. As políticas hoje são de tutela e de controle”, ressaltou. De acordo com ela, na medida em que se afirma o discurso da “vitimização” de alguém (“coitadinho dele!”), começa a se produzir o sentido de

desqualificação (“aquele que não tem direitos”): “Ele se torna aquele que pode ser perigoso”, esclareceu.

E os “perigosos” de hoje também são alguns movimentos sociais: “Com essas pessoas que são diferentes, que questionam as normas – como nós, na época da ditadura, éramos ‘terroristas’ – hoje, produzem outros ‘terroristas’. Prevalece ainda a lógica do inimigo interno entre nós, no cotidiano. Os inimigos do regime são pobres ou aqueles que tentam questionar. Ou qualquer um, que não precisa nem estar na militância direta, mas que tenta produzir outros mundos, diferente do capitalismo aí vigente”, explicou.

A professora chamou a atenção para o nome da Unidade de Polícia Pacificadora (UPP): “O Marechal Duque de Caxias, patrono do exército brasileiro, era chamado de ‘Pacificador’, pois foi aquele que mais aniquilou os movimentos sociais no período do Império. Não é por acaso que o Caveirão seja chamado de ‘pacificador’. Não é por acaso que essas invasões dos territórios pobres sejam chamadas de UPPs. Se a biografia de alguém possui a Medalha do Pacificador (condecoração do exército), cuidado com ele!”, brincou.

Apesar da conjuntura bastante desfavorável, a palestrante deixou claro que ainda há esperança de mudanças: “Esse poder tenta nos controlar, mas nenhum poder é total. Isso é bonito, a vida sempre escapa, sempre vaza. Aqui somos poucos? Somos, mas vamos nos juntando cada vez mais. Aqui representamos essa potência da vida, de não permitir ser controlada. Ao lado da denúncia, temos que afirmar outros modos de estar no mundo”, concluiu.

Crítica às UPPs

Rafael Dias, da Justiça Global, ressaltou que foi um grande trunfo do relatório alternativo fazer a abordagem da violência dentro do contexto dos direitos sociais. “Foi um relatório que ousou discutir alguns temas, como milícias, que foram incentivadas por muito tempo pelo Estado. Então foi um incômodo muito forte para as autoridades brasileiras ouvir desse relatório”, disse.

Para Rafael, existe uma política sofisticada de extermínio contra os pobres: “É uma guerra permanente e o objeto dessa guerra são as ‘classes perigosas’ desse país. São os pobres e são os movimentos sociais que querem democratizar direitos. Sempre foram perseguidos, criminalizados, e isso fica muito visível na política de segurança que é feita”, observou.

O representante da Justiça Global aproveitou a ocasião para também criticar a política de implantação das Unidades de Polícia Pacificadora (UPP), tão elogiadas na mídia: “A UPP parece que é uma grande solução, mas sabemos que não é. É muito forte a supressão de direitos. Atividades culturais são reprimidas. Não podem fazer festas depois de 22h. Moradores não têm o direito de reunião garantido. Tem a construção de muros...”, exemplificou Rafael.

A posição do movimento de crianças de rua

Eulange de Sousa, pelo MNMMR, observou que a produção do relatório alternativo foi muito importante para contemplar questionamentos que não apareceram no relatório oficial do país. Ressaltou que a própria existência de programas

governamentais de transferência de renda, como o Bolsa-Família, se resulta inútil para as pessoas que não têm moradia, um dos critérios para se candidatar ao benefício: “Quem não tem casa não tem acesso ao programa Bolsa-Família!”, criticou. Eulange lembrou que o Brasil terá que submeter um novo relatório à ONU em 2014 e o objetivo do movimento é continuar com as cobranças e proposição de recomendações.

Appendix 5: Recommendations from the Alternative Report

The following recommendations for the Government of Brazil are specific to the link between the denial of economic, social and cultural rights and violence. They were developed to reflect the ideas and suggestions that were made by experts and victims of violence alike during the preparatory mission for the Alternative Report in February 2009.

These recommendations have been grouped to reflect the themes addressed by the International Covenant on Economic, Social and Cultural Rights. They include, in addition, a number of complementary recommendations that, while not linked to specific articles of the Covenant, are nonetheless essential to ending the “criminalisation of poverty” analysed in this report.

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights

- Set an international precedent and lead by example by signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights when the Protocol opens for signatures in 2009, in order to provide the Committee with competence to receive and consider communications and complaints regarding violations of economic, social and cultural rights.

The promotion and protection of all human rights, including economic, social and cultural rights

Echoing the recommendations of the Special Rapporteur on the situation of human rights defenders following her mission to Brazil, call upon the Government to:

- Adopt more comprehensive strategies for the protection of human rights defenders, including defenders of economic, social and cultural rights, together with ending impunity for violations affecting them and unambiguously articulate support for activities in defence of human rights;
- In view of the urgency of addressing the problem of criminalisation of human rights activity, instruct the Special Secretariat for Human Rights and the Federal *Ministério Público* to make joint efforts to collect and analyse the cases brought against human rights defenders in order to propose legislation or policy guidelines to prevent prosecution of defenders for carrying out activities in defence of human rights, including economic, social and cultural rights; and
- Assume a more proactive role in addressing social conflict and in legitimising defenders’ participation and intervention on behalf of local movements. In particular, to assume the responsibility of ensuring that defenders are not left isolated in their struggle or support for social justice against powerful or influential social entities and economic interests.

Non-discrimination (article 2)

- Develop a holistic approach to end the discrimination and violence experienced by Brazil’s poorest citizens, including those in informal settlements and *favelas*. Necessary dimensions include economic and social development (employment creation, education initiatives, health services, enhancing the status of women, etc), enhancement of the rule of law

(strengthening and training the judiciary, training the police and local administrators in human rights), the creation of space for the meaningful involvement of civil society and the participation of local communities, including in the process of monitoring. This initiative should be accompanied by the funds necessary for its effective implementation;

- Introduce measures, including positive discrimination in the fields of employment, training and education, to combat prejudice, including institutional racism, and ensure that Brazilians of African descent, indigenous peoples, quilombola communities and other groups vulnerable to socio-economic exclusion and violence enjoy their economic, social and cultural rights without discrimination of any kind. This should include ensuring that they have access to basic services, including water and sanitation, as well as to health and education services of an adequate quality;
- Likewise, introduce measures, including positive discrimination in the fields of employment, training and education, to ensure that Brazilians who reside in informal settlements and *favelas* and who are vulnerable to both socio-economic exclusion and violence enjoy their economic, social and cultural rights without discrimination of any kind. This should include ensuring that they have access to basic services, including water and sanitation, as well as to health and education services of an adequate quality;
- Introduce measures, including appropriate educational, training and employment opportunities in Brazil's prisons and juvenile detention centres, to ensure that detainees who are vulnerable to both socio-economic exclusion and violence enjoy their economic, social and cultural rights without discrimination of any kind. Ensure adequate support services for the families of detainees, particularly those who do not qualify for financial support (*salário reclusão*), since these families are often particularly vulnerable to socio-economic exclusion; and
- Develop and implement communication strategies, including public awareness campaigns, to break the widely held association of poverty with criminality.

Equality for women (article 3)

- Identify and address specific cultural values that discriminate against and compromise the human rights of women and children, including their right to protection from all forms of violence. Create economic opportunities for women in order to promote their income-generating capacity and financial independence;
- Ensure that all Brazilian women victims of violence, including those from the poorest and most marginalised communities, enjoy in practice and not merely on paper, access to support structures and legal redress. Provide public resources and establish more services for women victims of violence, rather than relying on the support provided by civil society organisations; and
- Raise awareness of women and children's human rights, including economic, social and cultural rights, among the public at large, and in specific groups, including the police and judiciary. Advocate that violence against women and children is unacceptable.

Work and conditions of work (articles 6 and 7)

- Create specific employment programmes for residents of disadvantaged urban areas to compensate for discrimination in the job market;

- In conjunction with the private sector, develop and extend employment programmes for former prisoners to promote their social reintegration and to avoid that they revert to illegal or criminal activities; and
- Echoing the recommendation of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, improve conditions of employment in the police services to discourage police corruption and take firm steps to eradicate the illegal practice of *bico* (second jobs to round up wages). Off-duty police should under no circumstances be permitted to work for private security firms. To facilitate such changes, the police should be paid significantly higher salaries, and the shift structure of police work should be reformed so that police cannot regularly work for large blocks of time and then receive multiple days off.

Protection of children from exploitation (article 10)

- Ensure the effective implementation of the current legislation protecting and promoting the rights of children and enforce all related safeguards; and
- Ensure that children are not unlawfully arrested and detained; ensure that in case of legal arrest, children are granted legal services, are held in separate facilities from adults and are protected from police brutality, irrespective of their economic means.

Adequate standard of living (article 11)

- Further promote social inclusion policies for Brazil's poorest and most marginalised populations to reduce inequalities in both income and opportunity;
- Ensure the concrete implementation of the constitutional provisions related to land and adopt an agrarian reform consistent with the principles enunciated under the Constitution. This reform should address land conflict, ensure equitable land distribution and guarantee access to land;
- Elaborate a national policy on the regularisation of land occupation and simplify the issuance of title deeds, including those related to rural settlements, indigenous lands and quilombola communities;
- Undertake a census of quilombolas to assess the degree of recognition of quilombola lands. Proceed to the recognition and handing over of property titles to quilombolas;
- Establish an interministerial task force to address the issues of idle lands, land occupation and redistribution, in accordance with the constitutional provisions that guarantee the social function of land; and
- Ensure that immediate action is taken to guarantee that prison conditions meet minimum standards, including those laid down in the United Nations Standard Minimum Rules for the Treatment of Prisoners. Overcrowding should be reduced through more use of alternative sentences, open prison regimes and the construction of new prisons.

The highest attainable standard of physical and mental health (article 12)

- Recognise that the high levels of violence in Brazilian society, including gang violence, violence perpetrated by police and penitentiary agents, and violence against women and children, have a direct impact on the physical and mental health of many Brazilians, and provide adequate medical, counselling and support services in areas particularly affected by violence; and

- Ensure that all health professionals are aware of and take into account the repercussions of domestic violence on the health and wellbeing of women.

Education (article 13)

- Introduce a stronger human rights component in the education system, including the nurturing of positive values as regards women, persons of African descent, indigenous peoples and other groups that are victims of discrimination or targets of prejudice;
- Introduce reforms in the prison system to ensure adequate living conditions for all prisoners and to provide appropriate education and training opportunities of sufficient quality to support their reintegration into society and thus prevent prisons from serving as a source of further crime and violence; and
- Likewise, introduce reforms in the juvenile system to ensure adequate living conditions for all youth in juvenile detention centres and to provide appropriate education and training opportunities of sufficient quality to support their reintegration into society and thus prevent these centres from serving as a source of further crime and violence.

Culture and cultural life (article 15)

- Take all necessary steps to implement fully and effectively Federal Law no. 11645/08 on the obligation to include the teaching of Afro-Brazilian and indigenous history and culture in all primary and middle schools as a means to overcoming prejudice towards Brazil's citizens of African descent and indigenous peoples.

Complementary measures to break the links between poverty and violence

A necessary precondition for the promotion of economic, social and cultural rights in Brazil is the establishment of the rule of law in areas where the State is effectively absent. This must be achieved in a planned and systematic manner, and in full respect of human rights. It cannot be achieved by means of “mega-operations” and the application of the current model of policing based on aggressive confrontation and impunity for human rights violations, but calls rather for a new model of policing with a strong community dimension:

- Consistently compile and make available data on the profile of victims of all forms of violence, including their socio-economic status, in order to monitor and better address violence in society and its disproportionate impact on certain groups, including the poorest and most marginalised;
- Similarly, provide complete statistical data on extrajudicial, summary or arbitrary executions, torture and ill-treatment as well as police violence and violence perpetrated by public agents inside prisons;
- Review, improve and ensure the full independence of mechanisms for monitoring and ensuring the accountability of the State security apparatus, particularly the State military police. Support the establishment of a transparent monitoring mechanism to oversee the investigation of extrajudicial killings and the prosecution of perpetrators. Ensure that full and appropriate disciplinary measures are taken against police officers and other public officials found guilty of abusing their position;
- Echoing the recommendation of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, ensure that state governments, and especially the state government of Rio de Janeiro eschew large-scale police operations

against organised gangs in favour of systematic and planned progress, in full respect of human rights, in reasserting a sustained police presence and government authority in gang-controlled areas;

- Likewise, within the limits of the law, and in full respect of human rights, take firm and decisive steps to dismantle the network of militias that control economic resources and services in many poor urban neighbourhoods;
- Invest in training for the federal, civil and military police alike, and ensure that all police officers and penitentiary agents are educated in human rights, including the human rights of women, and in community policing techniques. In particular, raise awareness among the police of the economic, social and cultural rights, as well as the civil and political rights of Brazil's poorest citizens;
- Place greater emphasis on investigative techniques rather than interrogation in police training;
- Create more, and ensure a more effective distribution of, police stations specialised in dealing with violence against women and children (*delegacias especializadas de atendimento à mulher*) and allocate the resources necessary for the effective investigation of all allegations of violence against women. Promote the recruitment of female police officers;
- Develop a systematic training and awareness-raising programme for all law enforcement officials and members of the judiciary in relation to the investigation, prosecution and punishment of gender-based violence;
- As a matter of urgency, address violence against quilombola communities and their leaders, in particular assassinations, and ensure the absolute protection of quilombola leaders and communities;
- Likewise, as a matter of urgency, address violence against indigenous peoples, in particular assassinations, and ensure the absolute protection of indigenous leaders and communities; and
- Establish an independent commission to carry out an impartial and thorough investigation into cases of violence against indigenous peoples related to conflict over land, the result of which must be made public.
