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THE CRIMINALIZATION OF POVERTY

A Report on the Economic, Social and Cultural Root Causes of Torture and Other Forms of Violence in Brazil

**An Alternative Report to the
Committee on Economic, Social and Cultural Rights
prepared by**

Justiça Global,

the National Movement of Street Boys and Girls (MNMMR)

and the World Organisation Against Torture (OMCT)

in the context of the project

**“Preventing Torture and Other Forms of Violence by Acting on their Economic, Social
and Cultural Root Causes”**



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Foreword

This Report has been produced in the context of the OMCT project on “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 Swiss Agency for Development and Cooperation (SDC), the Karl Popper Foundation, the InterChurch Organisation for Development Cooperation (ICCO) and the Fondation des Droits de l’Homme au Travail. This project is founded on the principle of the interdependence of human rights and seeks to develop human rights responses that address the link between poverty and marginalisation on the one hand, and torture and violence on the other.

A preparatory mission to the state of Pernambuco was carried out by Eulange de Sousa and Maria Aparecida Pereira Martins on behalf of MNMMR and Michael Miller on behalf of OMCT from 9 to 15 February 2009. Special thanks to Paulo Valença Jr. of the Centro de Cultura Luiz Freire (CCLF) for organising the meetings in Recife and elsewhere in the state and for coordinating civil society contributions. Rafael Dias and Tamara Moreira Vaz de Melo from Justiça Global and Michael Miller from OMCT subsequently carried out a mission in the city of Rio de Janeiro from 15 to 17 February.

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Finally, the staff of Justiça Global, MNMMR and OMCT would like to extend their sincere thanks to the many victims of violence with whom they met during the mission and who were

prepared to share their personal experiences. We hope this report goes some way to repay their openness and courage.

The contents of this report are the responsibility of the authors and do not necessarily reflect the views of the organisations funding this project.

1. Addressing Poverty, Inequality and Violence: “the very heart of human rights protection”

Introduction

Today, there is no doubt that torture and cruel, inhuman or degrading treatment or punishment and other forms of violence – including violence against women and children - are related in many ways to disrespect for economic, social and cultural rights.¹ If, therefore, these phenomena are to be effectively eliminated, then their economic, social and cultural root causes must be, first, understood and, secondly, effectively addressed.² The converse equally applies: acting to reduce levels of violence in a given society is a fundamental step toward ensuring the widespread enjoyment of economic, social and cultural rights. As Ms. Louise Arbour, the former UN High Commissioner for Human Rights observed in her preface to the OMCT study on this theme, the question of “how to prevent or reduce violence, including torture, by acting on its root causes, often found in violations of economic, social and cultural rights”, is one that, “goes to the very heart of human rights protection.”³

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.*

This Report, prepared by Justiça Global, the National Movement of Street Boys and Girls (Movimento Nacional de Meninos e Meninas de Rua - MNMMR) and the World Organisation Against Torture (OMCT) is not intended to offer an exhaustive appraisal of the denial of economic, social and cultural rights in Brazil. Rather, it addresses 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. An important element of this report is the recommendations it contains for the Government of Brazil to address the economic, social and cultural root causes of torture and other forms of violence.

¹ 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 risk of torture is concerned, directly contributing to the vicious circle of brutalisation that is a blot on and a threat to our aspirations for a life of dignity and respect for all”, UN Doc.A/55/290, Report of the Secretary-General transmitting the Report of the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, 11 August 2000, §37.

² 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 Human Rights Committee, the Committee Against Torture, the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination Against Women.

³ OMCT, *Attacking the Root Causes of Torture: Poverty, Inequality and Violence – An Interdisciplinary Study*, Geneva, 2006, p.9, www.omct.org

Listening to the people

In February 2009, two members of staff from MNMMR and one from OMCT carried out a preparatory mission to the State of Pernambuco in the Northeast Region of Brazil (in particular, in and around the city of Recife). Subsequently the OMCT staff member travelled to the city of Rio de Janeiro in the Southeast Region of the country to for a series of meetings organised by Justiça Global. The full schedule of meetings held during the ten-day preparatory mission is listed in Appendix 1.

The aim of the preparatory mission was twofold: first, to consult representatives of Brazilian civil society regarding the link between violence and the denial of economic, social and cultural rights in Brazil, and second to meet and discuss with individuals whose lives have been directly affected by violence. Some of these were women victims of domestic violence, others had suffered violence at the hands of the police or had been the victims of shootings associated with gang violence in the neighbourhoods in which they live. Still others had lost family members as a result of being caught up in lethal violence. Finally, a number of women with a partner or husband in prison spoke of the economic hardship and the social stigma their situation brings upon them. Together, these interviews provide a testimony of the violence and insecurity that are a constant element in the lives of many of Brazil's poorest and most marginalised citizens. In addition, they offer the opportunity for these individuals to express their views concerning how the situation in Brazil might be improved.

The elements of this report

This section offers a brief overview of the issues covered in this report and locates them the context of the “criminalisation of poverty”, tracing the threads of a complex and challenging situation. It concludes with a summary of the key recommendations proposed by Justiça Global, MNMMR and OMCT.

2. The criminalisation of poverty

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. 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.

3. Inequality and violence

This section discusses how those who are most affected by socio-economic inequality – and in particular Brazil's black population – are also most likely to become victims of violence, especially lethal violence. The Government of Brazil recognises this challenges and has introduced a number of measures to improve the situation. One of these - the National Programme for Public Security and Citizenship (PRONASCI) – seeks to articulate public security policies with social action. The effectiveness of this Programme has yet to be gauged, although civil society expresses some reservations concerning its structure and implementation.

4. Police Violence Against the Poor

The criminalization of poverty 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. As Section 4 of this report discusses, 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 and 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

5. Militia Control of poor Urban Areas

In the last four to five 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 which 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 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.

6. Economic, Social and Cultural Rights and the Prison System

The prison system, discussed in Section 5, is a fundamental element in perpetuating the link between poverty and violence in Brazil and in feeding the phenomenon of the criminalisation of the poor. Poverty, inequality and violence, including institutional violence, not only lead to incarceration, they are also present within the walls of prisons and are generated around prison inmates and their families "on the outside". Indeed, incarceration leads to serious social stigma for a

⁴ Alston, Philip (2008) "Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil". A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version.

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 1450-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 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, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil". A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version,

prisoner's family, and this, together with the economic impact of losing the detainees's income-generating capacity can lead to serious economic precariousness. If, prior to incarceration, a prisoner was employed in the formal sector then his or her family has the right to claim a small amount of financial support (*salário reclusão*). If, on the other hand, he or she earned her income in the informal sector – the case for the majority of Brazil's poorest citizens – there is no such support. In this sense, the model of imprisonment currently applied in Brazil only serves to reinforce discrimination and deepen inequality. There is a sad but simple formula: the poor, classified *a priori* as “criminals” in an unsympathetic police and justice system, make up the majority of the prison population (and again we can add other overlapping identifiers such a “black” and “young”). In turn, incarceration only exacerbates their marginalisation and that of their families. While the law foresees education and training for prisoners to facilitate their reintegration in society, once again, in practice, this fails to work. In Rio de Janeiro, for example, the population of condemned prisoners in 2007 stood at 23,000, of whom only 510 were said to be receiving some form of training.

7. Violence against women

As is so often the case, women and children in poor communities are not only are particularly vulnerable to violence, but also susceptible to experiencing this violence in ways specific to their gender and age. Section 6 of this report discusses how, in many cases, women, and poor woman in particular, are tied to abusive partners by both financial dependency and, particularly in the North and Northeast Regions of the country, by a traditional vision of women as property of men. Again, poverty is not the only factor. Statistics demonstrate that Brazilian woman at greatest risk of being killed by their partner are not only “poor”, but also “young” and “black”. Women's vulnerability to violence is compounded by the challenges they face in seeking assistance. In particular, this report focuses on the response of the police, which has been described as “inefficient, disrespectful and, very often, violent.”⁷

8. Violence against human rights defenders and social movements

The final dimension of the criminalisation of poverty discussed in this report refers to the strategies employed by the police and 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 Quilombola communities.⁸ Many of the organisations that attended the one-day workshop in Recife for the preparation of this report considered that they were targeted by the State for their engagement in human rights, a claim that was echoed by representative of a number of the organisations we met with in Rio de Janeiro.

Key Recommendations

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 goal must be reached 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 violations. Rather, it calls for a new model of accountable policing with a strong community dimension.

⁷ SOS Corpo, *Violência e Saúde da Mulher*, Dados e Análises, III, no. 6, November 2007, p 7.

⁸ Quilombolos 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.

The full set of recommendations for the Government of Brazil arising from this report, including measures to improve policing, are listed in section 9. They include recommendations 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;
- 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 ensure that Brazilians of African descent, indigenous peoples, Quilombola communities, Brazilians who reside in informal settlements and *favelas*, and other groups vulnerable to socioeconomic 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;
- Identify and address specific cultural values that discriminate against and compromise the human rights of women and children, including their rights to protection from all forms of violence. Create economic opportunities for women in order to promote their income-generating capacity and financial independence;
- Echoing the recommendation of the UN Special Rapporteur on extrajudicial, summary and 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 in 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;
- 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 regularization of land occupation and simplify the issuance of title deeds, including those related to rural settlements, indigenous lands and Quilombola communities;
- Recognise that the high levels of violence in Brazilian society, including gang violence, police violence 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;
- Introduce reforms in the adult prison system and the juvenile detention system to ensure adequate living conditions for all prisoners, including 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 prisons from serving as a source of further crime and violence;
- Take all steps necessary to implement fully and effectively Federal Law 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.

2. The Criminalization of Poverty: an overview

It is all but impossible to consider poverty, inequality and, indeed, the enjoyment of economic, social and cultural rights in general in Brazil, without addressing the question of violence. In short, violence in Brazil is not incidental to poverty and inequality, but rather, an inherent element of these phenomena. To be poor is not only to struggle to obtain adequate education and health services, or to find paid work in the formal sector, it is also to face the constant risk, or repercussions of violence in the home and on the streets. In turn, this violence reinforces social exclusion – children are afraid to go to school, communities are forced off their land, lack of opportunities pushes youth into drug trafficking and other illegal activities, and men and women “tainted with the crime associated with their area of residence”⁹ are unable to find work. The constant presence of violence in its various forms also has a direct impact on the health of those it touches. During the preparatory mission, Patricia, a resident of the neighbourhood of Lins de Vasconcelos in Rio and a mother of three, described how she had been raped as a child, how her father had been shot and how, 13 years ago, her 3-year old son had been killed by a *bala perdida* – a stray bullet – in her home. As a result of these experiences she suffers from severe anxiety and panic attacks and is unable to read a newspaper or watch television. She is now receiving out-patient treatment in a psychiatric hospital. Her condition has caused her to lose her job, and she explained that she can no longer afford gas for cooking and instead uses firewood. She underlined that, in any case, she does not know from where the next meal for her and her children will come.

The cycle of poverty and violence can be observed across Brazil in a range of circumstances. It is, for example, clearly evident in Amazonia, where logging interests direct violent force against indigenous communities and others who oppose deforestation and the encroachment of commercial activities on their territories. It is equally clear in agricultural areas of the country such as the state of Mato Grosso do Sul where the promotion of monocultures including soya and sugarcane by both national and international companies is driving agricultural workers off the land, and where labourers employed by agribusinesses often endure conditions that are consistent with contemporary forms of slavery. Mato Grosso do Sul is also one of the states where violence against indigenous peoples is most prevalent.

In this report, the economic, social and cultural root causes of violence and, indeed, the impact of violence upon the possibility of enjoying economic, social and cultural rights, are examined from the specific perspective of “the criminalisation of poverty”, with a particular emphasis on Brazil’s urban areas.¹⁰ The term “criminalisation of poverty” was frequently used both by representatives of civil society and by victims of violence in the course of interviews and meetings carried out during the preparatory mission. It refers to a clear and observable phenomenon that sees the poorest members of Brazilian society identified by state and quasi-state actors (the police, and in particular the military police, elements of the legal system, prison guards and militias) as criminal, or potentially criminal elements and on that basis being targeted for extortion, arbitrary arrest and detention, physical violence or, indeed, summary execution.

⁹ Alston, Philip (2008) “Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil”. A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version, footnote 10.

¹⁰ While this report focuses in particular on two large cities – Rio de Janeiro and Recife – it is important to note that that violence is present in all urban settlements, both large and small. Indeed, violence may be particularly acute in small, isolated urban centres where fewer support services are available, facilities are less developed, the political landscape is less well developed, public scrutiny is less present and awareness of legal entitlements and human rights is lower.

While poverty is an important social identifier in this construction of criminality in Brazil, it is not the only one. To be “poor” is compounded by a number of other overlapping descriptors, including “young” and “black”. The issue of racial discrimination is often overlooked in Brazil, however it is present throughout Brazilian society: it is, for example, estimated that Afro-Brazilians earn less than 50 per cent of the average earnings of other Brazilians.¹¹

Another important element feeding into the criminalisation of poverty in Brazil relates to a person’s place of residence. Some of the country’s most disadvantaged citizens reside in Brazil’s informal or semi-formal urban settlements – the *favelas*. These areas are largely devoid of state power, and violence is a common occurrence. For many Brazilians, *favelas* are inextricably associated with criminality, but while the *favelas* are indeed home to criminals including, in some cases, organised gangs, these elements constitute a minority of the population. The association of *favelado* (a resident of the *favelas*) with criminality, however, fuels oppressive and violent police action against entire communities: in every major city in Brazil, the majority of victims of police violence are residents of the *favelas*. Among the songs used during the training of the State of Rio de Janeiro’s Military Police Special Operations Battalion (Batalhão de Operações Policiais Especiais - BOPE), there is one with the words: “Interrogation is very easy to do, take a *favelado* and beat him till it hurts; interrogation is very easy to end, take a *favelado* and beat him till he’s dead.”

The association of certain economic and social categories with criminality is further reinforced by media depictions of poverty. Santo Amaro, a *favela* area of Recife, is frequently referred to in the press as the “*bairro do crack*” (the crack neighbourhood), and even “Crackolandia”, in a manner that associates *all* its residents with the drug trade. Certain politicians have also had a role in promoting or reinforcing these ideas. In an interview on 22 October 2007, Sérgio Cabral Filho, Governor of the State of Rio de Janeiro, commented on the benefits of legalising abortion as a means of decreasing criminality: “If you take the number of children per mother in Lagoa Rodrigo de Freitas, Tijuca, Méier and Copacabana [white middle class areas of the city of Rio de Janeiro], it’s Swedish standards. Now, take Rocinha [the largest *favela* in Brazil, located in the south of Rio]. It’s Zambia or Gabon. It’s a factory for producing delinquents.”¹² The idea that poor women are vectors of violence and delinquency was echoed by José Mariano Beltrame, the Secretary for Security in the State of Rio de Janeiro in July 2008: “[Rio lives] in a culture [of violence] which the delinquent draws from his mother’s belly.”¹³

This distortion sees victims of violence from Brazil’s poorest classes being transformed into “criminals”, a distortion which is cynically manipulated by the police themselves: young persons arbitrarily shot by the police in Brazil’s *favelas* are officially registered as having resisted arrest. At times this can involve agents of the police planting drugs, a weapon or a walkie-talkie on the corpse to “confirm” the victim’s association with drug trafficking. In recent years, the number of cases of death registered as a result of “*auto de resistência*” – acts of resistance - by the police has risen dramatically. In 1997, the Rio de Janeiro Police registered 300 civilian killings as *autos de*

¹¹ Bertelsmann Stiftung, 2007, *BTI 2008 - Brazil Country Report*, Gütersloh: Bertelsmann Stiftung, p. 14

¹² “Você pega o número de filhos por mãe na Lagoa Rodrigo de Freitas, Tijuca, Méier e Copacabana, é padrão sueco. Agora, pega na Rocinha. É padrão Zâmbia, Gabão. Isso é uma fábrica de produzir marginal”. Interview with G1: Globo.com, 24/10/07 - 08h08, <http://g1.globo.com/Noticias/Politica/0,,MUL155710-5601,00-CABRAL+DEFENDE+ABORTO+CONTRA+VIOLENCIA+NO+RIO+DE+JANEIRO.html>

¹³ “[O Rio vive] uma cultura [da violência] que o marginal traz do ventre da sua mãe”. Beltrame was participating in a debate on public security organised by the newspaper *Extra*. When Beltrame was criticised for the extremity of his statement he offered the following explanation; “What is extreme is a woman who is walking in the street with her child and has to pass by people with grenades and rifles. For decades Rio de Janeiro was built on this. This is what I wanted to say.” Reported in *Folha de S. Paulo*, Folha Online, 29/07/2008 - 23h10, <http://www1.folha.uol.com.br/folha/cotidiano/ult95u427571.shtml>

resistência, a figure that rose to 427 in 2000, and 1330 in 2007. The most recent report issued by the by the Institute of Public Security (ISP) of the state of Rio de Janeiro indicates a 9.1 per cent increase in deaths registered as acts of resistance by the police in the first six months of 2008 compared to the same period in 2007.¹⁴

Of course, the residents of Brazil's informal settlements and other poor communities are not only the victims of security forces. They are also at risk of extreme violence from the gangs who control many of the poorest areas of Brazil's cities. Heavily armed, and often acting with impunity, these gangs derive a large part of their income from trafficking drugs and weapons in addition to violent street crime. Significantly, the gangs also diversify into other areas, including the provision of gas, transport, cable television services and "security" to the residents of informal settlements. They engage in extortion of residents and businesses, impose their own "laws" and mete out their own form of justice. The presence of these gangs therefore impacts on both the safety of local communities and their economic wellbeing. In his report on his mission to Brazil, the UN Special Rapporteur on extrajudicial, summary and arbitrary executions describes "a context of significant organized crime" and confirms that gang activity is often motivated by economic interests:

*If a monopoly of criminal activity and a near monopoly on violence can be established within a particular area, and organization can: (a) effectively demand protection fees from businesses and "taxes" from residents; (b) prevent residents from informing the police of their activities, and thereby safely hide themselves, drugs, and ammunition; and (c) impose on the residents any other rules that will facilitate their criminal activity.*¹⁵

The violence that is frequently directed at Brazil's urban poor only serves to exacerbate their socioeconomic marginalisation. Generally, they face a lack of employment opportunities and a dearth of services, and where such services exist, their quality is poor. The relationship between socio-economic opportunity and violence is discussed in Section 3 of this report.

In the course of the preparatory mission, when asked what they considered to be the crucial elements required to break the cycle of violence and poverty in Brazil's informal settlements, residents of these areas consistently identified i) the creation of appropriate employment opportunities in the formal sector, and ii) the provision of quality education, including qualified teachers and adequate materials. For this to happen, the rule of law must be established – in full respect of human rights - in Brazil's poor urban areas, but it is widely held that the current structure, training and *modus operandi* of Brazil's police forces are wholly inadequate to this task.

¹⁴ Between January and July 2007, 694 persons died as a result of police actions, while the same period in 2008 saw 757 deaths of this kind. All figures from Instituto de Segurança Pública do Estado do Rio de Janeiro, www.isp.rj.gov.br

¹⁵ Alston, Philip (2008) "Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil". A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version, §17.

3. Inequality and Violence in Brazil

Socio-economic inequality

Brazil, an increasingly important international player with a Gross Domestic Product of US\$ 1,314.2 billion in 2007, remains a country marked by serious inequality. It is estimated, for example, that between 1995 and 2005, the combined income of the poorest 40 per cent of households in the country accounted for only 6 per cent of the share of total household income, while the richest 20 per cent of households accounted for as much as 61 per cent of Brazil's total household income in this period (the global average for the same period was 19 per cent and 42 per cent).¹⁶ In figures reported by the World Bank in 2008, it was estimated that 22 per cent of Brazil's population lived below the national poverty line.¹⁷

There are distinct gender and racial dimensions to Brazil's inequality, and the country's black, indigenous and Quilombola populations are particularly vulnerable to economic exclusion. In its 2008 analysis of the living standards of the Brazilian population, the Instituto Brasileiro de Geografia e Estatística (IBGE) indicated that of the country's illiterate population of just over 14 million, almost 9 million were of African descent.¹⁸ Moreover, educational discrepancies between the white population and the population of African descent tend to widen as the education level rises. In the 15 to 17 age group, 85.2 per cent of white youth are studying, and of these 58.7 per cent are engaged in the school level appropriate for their age group (*ensino médio*). Among youth of the same age of African descent, 79.8 per cent attend school, but only 39.4 per cent of these attend middle level school. In the 18 to 24 age group this difference becomes still more marked: 57.9 per cent of white youth in this group attend polytechnic or university (*ensino superior*), compared to only 25 per cent of the youth of African descent.¹⁹ Educational differences are, in turn, played out in terms of earnings: the average earnings of a Brazilian of African descent are around 50 per cent that of a white Brazilian. And this difference is not fully explained by educational achievement: comparing hourly wages rates according to years of study, white Brazilians consistently earn more than Brazilians of African descent of the same educational background. Another way to look at this is according to family incomes in the poorest 10 per cent and the richest 1 per cent of the population. The white population accounts for little more than 25 per cent of the total income of Brazil's poorest families, but as much as 86 per cent among the richest. At the same time, the population of African descent contributes 74 per cent of the income of the poorest families, and only 12 per cent of the income of the richest.²⁰

Brazil's economic disparities also have a clear geographic dimension: poverty rates are particularly high in the North and Northeast regions of the country and relatively lower in the more industrialised South and Southeast. Brazil's inequality is not only explained by regional disparities, since severe inequality is also to be found within both regions and metropolitan areas. Many of the urban poor are to be found on the peripheries of Brazil's cities – in areas that are also characterised by lower educational levels, poorer health, poor employment conditions and higher levels of malnutrition.²¹ Indeed, Brazil's high level of urbanisation – 85 per cent in 2007²² – presents a

¹⁶ All figures provided by UNICEF, 2008, *The State of the World's Children 2009*, UNICEF, New York, p. 118 & 121.

¹⁷ World Bank, 24 September 2008, http://devdata.worldbank.org/AAG/bra_aag.pdf

¹⁸ The IBGE uses the terms "preta" and "parda" to describe this population.

¹⁹ Instituto Brasileiro de Geografia e Estatística (2008) *Síntese de Indicadores Sociais. Uma Análise das Condições da Vida da População Brasileira, 2008*, Estudos & Pesquisas, no. 23, IBGE, Rio de Janeiro, n.p.

²⁰ Instituto Brasileiro de Geografia e Estatística (2008) *Síntese de Indicadores Sociais. Uma Análise das Condições da Vida da População Brasileira, 2008*, Estudos & Pesquisas, no. 23, IBGE, Rio de Janeiro, n.p.

²¹ Executive Board of the United Nations Development Programme and of the United Nations Population Fund, "United Nations Population fund. Country programme for Brazil", DP/FPA/CPD/BRA/4, 9 October 2006, p. 2

²² UNICEF, 2008, *The State of the World's Children 2009*, UNICEF, New York, p. 138

serious challenge in terms of ensuring services and employment and providing infrastructure for the country's urban population.

The socio-economic polarisation of Brazil's population has, to some extent, been reduced by reforms introduced under the presidency of Luiz Inacio Lula da Silva, whose first term in office began in 2003. Unemployment has declined, poverty has been reduced, income inequality is improving. Nonetheless, Brazil still has one of the most inequitable income distributions in the world.

Levels of violence

As regards the prevalence of violence in Brazil, and if we take homicide as an indicator of violent crime in general,²³ Brazil's overall rate is notoriously high. The UN Special Rapporteur on extrajudicial, summary and arbitrary executions reports that homicide is the leading cause of death for persons aged 15 to 44 years. Between 1980 and 2002, the homicide rate (per 100,000 residents) nearly tripled - to a peak in 2002 of 30.4 (a total of 49,640 homicides in that year). The figures dropped slightly the following years, to 28.3 in 2004, 27 in 2005, and 25 in 2006, but remain well above the world average [8.8 per 100,000 in 2000, excluding war-related deaths, according to WHO]. Nationwide, nearly 70% of murders involve firearms.²⁴ A study in 2005 indicated that there were some 17 million firearms in the country, of which 90 per cent were in private hands. In turn, 25 per cent of these - or 3.8 million weapons - are estimated to be in criminal hands.²⁵

According to research by the Institute for Applied Economic Research and the Ministry of Planning, Budget and Management (Ipea/MPOG), in 2004, the total cost of violence in Brazil, including the costs of caring for victims and repairing damage, amounted to R\$ 90 billion (US\$ 405 billion at today's rates), or 5 per cent of the country's gross domestic product.²⁶

The state of Pernambuco in the Northeast Region has one of the highest homicide rates in the country (53 per 100,000 in 2005), but it is important to recognise that the real homicide rate for certain other states in Brazil, including Rio de Janeiro and São Paulo, is significantly higher than the official statistics indicate because, unlike Pernambuco, they do not include on-duty killings by police. The UN Special Rapporteur on extrajudicial, summary and arbitrary executions reports that in Rio de Janeiro (where the homicide rate was 40.7 in 2006), on-duty police kill three people every day and are responsible for nearly 18 per cent of the total killings.²⁷ If these figures were included in the homicide statistics, the State of Rio de Janeiro would have a homicide rate similar to that of Pernambuco. Brazil's metropolitan areas tend to report still higher rates of homicide: in 2005, the

²³ Homicide is generally recognised as being associated with other types of crime and violence.

²⁴ Alston, Philip (2008) "Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil". A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version, para. 8.

²⁵ Dreyfus, Pablo and Luis Eduardo Guedes, Ben Lessing, Antônio Rangel Bandeira, Marcelo de Sousa Nascimento and Patricia Silveira Rivero (2008), *Small Arms in Rio de Janeiro. The Guns, the Buyback, and the Victims*, a study by the Small Arms Survey, Viva Rio, and ISER published by in English by the Graduate Institute of International and Development Studies, Geneva, p. 31

²⁶ Ipea/MPOG cited in Ministério da Saúde (2008), *Prevenção de Violências e Cultura de Paz V. III*, Painel de Indicadores do SUS, no. 5, Ministério da Saúde, Brasília, p. 10.

²⁷ Alston, Philip (2008) "Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil". A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version, para. 9.

rate in Vitória in the state of Espírito Santo was as high as 78.2 per 100,000, while the rate in Recife was 76.7, in Rio de Janeiro it was 62.6 and in São Paulo it was 51.7.²⁸

It is no surprise to find that patterns of violence in Brazil tend to reflect patterns of socioeconomic exclusion, both regionally and in terms of vulnerable groups. The Northeast Region of Brazil has the highest rate of homicide in general, as well as the highest rate of homicide with a firearm, while the South has the lowest. Similarly, the Northeast Region has the highest rate of homicide by all other types arms, while the Southeast has the lowest rate for this category of homicide.

Discrimination, poor quality education and lack of opportunities inevitably lead a proportion of Brazil's youth – and poor young men in particular - to turn to crime, be it street crime or more organised criminal activities. In some cases engaging in crime is perceived as a means to achieve both economic and social status in a world that otherwise offers few opportunities to make one's mark. In other cases there is no conscious choice to engage in criminal activity: young people in Recife recounted how, for example, drug dealers give supplies of drugs to children for safekeeping, and parents know that if they make a report to the police there will be lethal consequences. This strategy allows the dealer to reinforce and extend drug trafficking networks within a given neighbourhood by drawing in new recruits, reinforce control over the residents of this neighbourhood through intimidatory tactics, and spread the risk of holding significant supplies of drugs. Children under twelve, and hence below the minimum age of criminal responsibility, are also attractive recruits for drug dealing networks because, should they be stopped by the police, they cannot be charged. Inevitably this creates the real risk that the police will resort to illegal measures to “punish” children or to obtain information from them. Similarly, and in keeping with international standards, youth between the ages of 12 and 18 are subject to Brazil's juvenile system and risk no criminal record. Youth in this age group who are apprehended by the police do, however, run the risk of violence at the hands of the police, and of being assigned to special facilities for juveniles, in which conditions are frequently even worse than those in adult prisons.

Regarding victims of violence, there are still no unified statistics in Brazil, although the IBGE is currently working on just such a project. Nonetheless, there are sufficient data to confirm that the victims of homicide are overwhelmingly young, male, black and poor. Between 1993 and 2002, the number of young people between the ages of 15 and 24 who were murdered in Brazil increased by 88.6 per cent, while the number of murders in the population in general grew by 62.3 per cent (compared to a population growth of 15.2 per cent over the same period).²⁹ The murder rate among Brazilians of African descent aged between 15 and 24 in 2002 was 68.4 per 100 thousand inhabitants: 74 per cent higher than the level for white Brazilians of the same age.³⁰ In Pernambuco, the chances of a black youth becoming a victim of homicide are five times greater than that of a white youth.³¹

There are twice as many black homicide victims in Brazil as there are white, and this ratio holds for men and women alike. In 2006, 29,191 black Brazilians were murdered compared to 15,220 white Brazilians, and while the risk of becoming a victim of homicide is decreasing slightly among the

²⁸ Instituto de Pesquisa Econômica Aplicada, cited by Children and Youth in Organised Armed Violence (COAV), “Estatísticas – Brasil: Taxa de homicídios entre jovens quase dobrou nos anos 90”

<http://www.coav.org.br/publicue/cgi/cgilua.exe/sys/start.htm?inford=1385&tpl=printerview&sid=3>

²⁹ Waiselfisz, Julio Jacob (2004) *Mapa da violência IV: os jovens do Brasil*, UNESCO, Instituto Ayrton Senna, Secreterai Especial dos Direitos Humanos, Brasília, pp 29-30

³⁰ Waiselfisz, Julio Jacob (2004) *Mapa da violência IV: os jovens do Brasil*, UNESCO, Instituto Ayrton Senna, Secreterai Especial dos Direitos Humanos, Brasília, p56

³¹ Waiselfisz, Julio Jacob (2004) *Mapa da violência IV: os jovens do Brasil*, UNESCO, Instituto Ayrton Senna, Secreterai Especial dos Direitos Humanos, Brasília, p58

white population, it remains stable among the black population.³² Among black women, the risk of falling victim to homicide is increasing: in 2000, the homicide rate among black women was 20 per cent higher than that of white women, while by 2006, the homicide rate among black women was 71 per cent higher.³³

Education level is also a factor: based on figures from 2003, the risk of death by homicide in the 15 to 59 age group was significantly higher among persons with less than four years of schooling. Among white Brazilians with less than four years of schooling, the risk of being murdered increases 2.3 times, while among the black population, this risk increases 2.9 times.

The UN Special Rapporteur on extrajudicial, summary and arbitrary executions confirms that high crime and homicide rates disproportionately affect the poorer classes, particularly those in *favelas*, and points to a strong negative correlation between average income and homicide rates. In some cities, the homicide rate in the poorest neighbourhoods is 4.5 times that of wealthy areas. The Special Rapporteur quotes figures for the city of Rio de Janeiro from the Instituto de Segurança Pública that demonstrate that, between 2000 and 2005, the poor areas of Zona Norte 2 and Baixada had homicide rates of 56.8 and 55.2 per 100,000 respectively, while the wealthy area of Zona Sul had a rate of 12.6.³⁴

The discrepancies between wealthy and poor urban neighbourhoods, both as regards socio-economic conditions and the prevalence of violence, are often enhanced by the physical proximity of these areas. In many cities, and most notably in Rio de Janeiro, wealthy neighbourhoods and *favelas* exist side by side, heightening middle-class concerns regarding insecurity and encouraging the engagement of private security companies, the creation of gated communities protected by security fences, the construction of enclosed malls and the abandonment of public spaces. Residents of Santo Amaro in Recife told how, when the large Tacaruna Shopping Centre was constructed on adjoining land, a 2 metre wall was erected around the boundaries of their neighbourhood, in addition to the security perimeter constructed around the shopping centre. They regard this initiative as a clear form of spatial – and visual – exclusion.

The Government's response to poverty and violence

Brazil has proven to be relatively effective in terms of developing legal frameworks and public policies to address economic, social and cultural issues and, indeed, it is frequently held up as an international model in this respect. During the preparatory mission, however, it was frequently stated that the Government has often struggled to implement these laws and policies, with the result that few have had the desired impact on the lives of Brazil's citizens. Similarly, channels for the effective participation of civil society in these policies are often lacking, as is transparency in the process of policy development. For example, Brazil's commitment to participatory budgets is widely admired and, to an extent, this admiration is warranted. At the same time, civil society organisations report that in practice the necessary mobilisation of the full range of actors who should be involved in the budget-making process is frequently overlooked and that budgetary decisions are ultimately taken *in camera*.

³² Ministério da Saúde (2008), *Prevenção de Violências e Cultura de Paz V. III*, Painel de Indicadores do SUS, no. 5, Ministério da Saúde, Brasília, p. 20.

³³ Ministério da Saúde (2008), *Prevenção de Violências e Cultura de Paz V. III*, Painel de Indicadores do SUS, no. 5, Ministério da Saúde, Brasília, p. 20

³⁴ Alston, Philip (2008) "Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil". A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version, footnote 10.

As regards poverty alleviation, one of the best known initiatives is the *Bolsa Familia*. This is effectively a conditional cash transfer programme that provides a monthly financial contribution to families that send their children to school (up to a maximum of three children). The *Bolsa Familia* was frequently cited by individuals interviewed during the preparatory mission as the sole means by which they could guarantee being able to provide food and clothing for their children, but while this mechanism is certainly important in supporting the basic subsistence of Brazil's poorest citizens, it is the output of a social policy that is only partially developed. In practice, the *Bolsa Familia* remains an isolated initiative, unaccompanied by complementary measures that would introduce a necessary sustainable dimension.

In 2007, President Lula announced the *Programa de Aceleraçãodo Crescimento* (PAC), a programme intended to accelerate the country's economic growth. PAC focuses on public investment in key sectors of the economy and includes the creation of a fund for infrastructure projects, together with tax cuts in certain sectors intended to generate investment. The support provided by PAC for infrastructure projects and other large developments has provoked serious concern as regards human rights violations, particularly among indigenous and Quilombola communities who have found themselves displaced – often forcibly - to make way for hydroelectric schemes and other developments. PAC has also promoted much-needed investment in infrastructure in Brazil's *favelas*, however, once more, real community participation has been lacking in these initiatives, and in certain cases they have led to displacement and forced evictions.

Initiatives to improve security and reduce violence have included measures to reduce the number of firearms on the streets, including the Disarmament Statute, Law no. 10, 826/03 of 2003, which made it an offence to carry a gun without a permit and required all guns to be registered. More recently, an important step was taken to promote the protection of women from violence with the approval of the federal law no. 11,340, known as the Maria da Penha Law,³⁵ on 7 August 2006. This law defines violence against women, identifies the appropriate services to address this issue and establishes mechanisms against the impunity of the perpetrator. It includes an increase in the maximum sentence for those responsible for domestic violence from one to three years and includes measures such as removing the abuser from home, banning him or her from the proximity of the victim, or imposing preventive imprisonment when threats have been made against a woman's physical integrity. The introduction of the law has in addition been important in raising awareness of the issue of violence against women in Brazilian society. It has also had an impact on the procedures in police stations: from October 2006 to May 2007, 32,630 inquiries were initiated – an average of 177 inquiries for every station specialized in addressing violence against women (*Delegacia Especializada de Atendimento a Mulher*).³⁶

As for addressing the root causes of the violence that permeates Brazilian society, the Government has developed a response in the form of PRONASCI – The National Programme for Public Security and Citizenship - which seeks to articulate public security policies with social action. According to the Government, PRONASCI, launched in 2007, is intended to promote the training of the agents responsible for public security, the restructuring of the prison system and community involvement in the prevention of violence. To this end, it brings together Brazil's state governments, municipalities, NGOs and international organisations.³⁷ PRONASCI consists of a total of 94 elements which operate from the national to the community level. These include:

³⁵ Maria da Penha, after whom this law is known, lived for six years with a violent husband who attempted to kill her on two different occasions, first with a firearm and secondly by electrocution and drowning. As a result, she is now paralysed.

³⁶ Ministério da Saúde (2008), *Prevenção de Violências e Cultura de Paz V. III*, Painel de Indicadores do SUS, no. 5, Ministério da Saúde, Brasília, p. 45.

³⁷ See the documentation on PRONASCI provided by the Federal Government Ministry of Justice :

- a fund for training public security professionals to work and act with local communities;
- police training in non-lethal technologies, investigative techniques, forensic techniques, human rights principles etc.;
- capacity building for women community leaders (*mulheres da paz*);
- youth, trained in turn by *mulheres da paz* (cascade effect) and multidisciplinary teams, who will reach out to other youth and their families to promote citizenship;
- the creation of special facilities in the penitentiary system for specific groups, notably youth between the ages of 18 and 24 and women, in addition to training of prison guards;
- housing for those public security professionals on low income; and
- enhanced partnerships between ministries to promote social actions and reduce violence.

The holistic approach to violence, policing and social activities inherent in PRONASCI is certainly the basis upon which effective initiatives must be built, however PRONASCI itself has provoked serious concerns in Brazilian civil society, not least because of the lack of transparency associated with its development. Civil society indicates that, despite the government rhetoric, PRONASCI is a top-down initiative of which the essential elements were determined without meaningful consultation. Indeed, it is said that PRONASCI was largely developed within the Ministry of Justice without the explicit participation of other ministries such as those for Social Development or Planning, nor of the President of the Republic's Special Secretariat for Human Rights. Moreover, while the general lines of PRONASCI are known, many of the details remain obscure, including questions relating to the unification of Brazil's three police forces and the independence of ombudsman offices and the Institute of Legal Medicine (*Instituto Médico Legal*). Likewise, initiatives to reduce the levels of homicides perpetrated by the police are poorly addressed, and no measures are foreseen to remove from the streets police officers under investigation for killings. Regarding its implementation, there are no guarantees that actors participating in PRONASCI will enjoy real decision-making power. Women's organisations have also expressed their serious concern that the *mulheres da paz* dimension, whereby women are appointed community leaders and in turn train local youth, amounts to a distortion of the State's obligation to implement measures to protect and promote the rights of women by recruiting women themselves as "agents of the State". Furthermore, there are no timetables for the implementation of many of the measures included in the Programme, and specific goals and budgets have not been set.

In Brazil's federal system, state governments also have a key role to play in addressing violence. To take one example, the plan for public security developed by the State of Pernambuco and known as the Pact for Life (*Pacto pela Vida*) brings together a range of short-, medium- and long-term measures that are intended to reverse the rise of violent crime in the State, and especially crimes with lethal consequences. The basic aim is to reduce mortality levels as a result of intentional violence by 12 per cent per year. The Pact is founded on the following ideas:

- the incorporation of a human rights perspective in public security policies and practices;
- the introduction of improved policing techniques, including intelligence gathering and investigation, and social measures intended to prevent violence;
- the coordination of all elements of the state government involved in aspects of public security;
- the incorporation of management, monitoring and evaluation mechanisms at all levels;
- the participation of civil society from the formulation of strategies to the execution of public security actions.³⁸

³⁸ Fórum Estadual de Segurança Pública (2007) *Pacto pela Vida. Plano Estadual de Segurança Pública*, Governo de Pernambuco, Recife, p. 13.

The impact of this and other similar initiatives depends not only on the availability of resources, but also the political will to ensure effective implementation and ongoing monitoring. Furthermore, it is essential that civil society is given the space and opportunity to participate meaningfully in and influence these initiatives.

4. Police Violence against the Poor

In Rio de Janeiro, and across Brazil, police actions in poor communities are associated with systematic violations of human rights. Arbitrary and disproportionate use of force by agents of the State, repeated cases of summary executions and the inevitable categorisation of victims as “drug dealers”, as well as police “mega-operations” in *favela* neighbourhoods are inherent elements of public security policies in Rio de Janeiro. Together they represent the tragic repetition of practices that both derive from the criminalization of poverty and contribute to the banalisation of serious human rights violations. Appendix 2 offers a brief selection of newspaper headlines reporting summary execution cases carried out by the Rio de Janeiro police in 2007 and not only illustrates the commonplace use of excessive violence, but also the extent to which this becomes a daily feature in the life of Brazil’s citizens. Indeed, the use of lethal force has become so frequent that it has been suggested that the police forces of Rio de Janeiro consider high number of deaths as a standard of efficiency.³⁹ Those most affected by this violence are the residents of the city’s poorest neighborhoods who do not enjoy even the minimum economic, social and cultural rights established under both international standards and the Brazilian Constitution. Relativising the acceptability of police operations in different areas of Rio de Janeiro, José Mariano Beltrame, the State Secretary for Public Security, declared to the press that “a gunshot in Copacabana is one thing, a gunshot in Complexo do Alemão is another”.⁴⁰ In differentiating between the significance and impact of actions by armed police in a wealthy area of Rio de Janeiro and a well-known *favela*, the State Secretary appears to imply that citizens living in poor communities do not enjoy the same rights or status as those of wealthier neighborhoods.

During the preparatory mission we heard the testimony of several individuals who had lost family members as a result of arbitrary and violent police actions. Luis, a resident of Complexo Acari, an informal settlement of some 40,000 inhabitants in the City of Rio de Janeiro, and an area with one of the highest indices of poverty in the state, told how his 3 year old son was killed in 1996 by a military police bullet in the head while the police were in pursuit of a suspect: “When they [the military police] enter the *favela*, it’s to kill. There’s always a victim.” And when that victim belongs to Brazil’s poor, redress is particularly hard to obtain. The poor struggle to pay for legal assistance, and the justice system is notoriously slow, particularly where the poor are concerned. Furthermore, the police enjoy a high degree of *de facto* impunity, and in cases involving police shootings and other forms of violence the perpetrators are rarely brought to justice. The poor are also vulnerable to threats and intimidation from those responsible for the violence, and it is commonly understood that bringing a complaint against the police is an invitation to still more violence.

Ongoing high levels of police violence in certain neighborhoods compromise still further the economic, social and cultural rights of local residents. Civil society reports that police operations have stopped children and youth from going to school and residents from going to work and have prevented health posts from operating. Brazil’s Platform for Economic, Social and Cultural Rights

³⁹ In addition to the serious human rights violations associated with this policy, there is no evidence to indicate that it is successful in combating crime. Official data from the Public Security Institute of Rio de Janeiro (http://www.isp.rj.gov.br/ResumoAisp/2007_09/Web/Estado/Estado.htm) show that from January to September 2007, 961 people were killed by police actions, an average of seven deaths every two days. That is an increase of 154 deaths, or 19 per cent, over the same period in 2006. As the number of deaths increased, the number of arrests decreased. From 1 January to 30 September 2007, the police arrested 10,215 suspects compared to 13,109 in the same period in 2006. There was also a reduction in the apprehension of drugs: 7,062 cases were registered from January to September 2007, compared to 8,450 cases in the same period of the previous year. Similarly, a smaller number of guns apprehended were apprehended: 7,770 compared to 10,233 – a decrease of 2,463. Thus, despite the increase in police lethality in 2007, the amount of drugs and guns apprehended decreased.

⁴⁰ Folha de S. Paulo. “To Secretary, gunshot in Copacabana ‘is one thing’ and in the Complexo do Alemão, ‘is another’”. October 24 2007. <http://www1.folha.uol.com.br/fsp/cotidian/ff2410200728.htm>

(Plataforma DhESCA Brasil), in the context of the National Report on the Human Right to Education, carried out an investigative mission in Complexo do Alemão in 2007, following complaints regarding the violation of the right to education. The Platform confirmed the extreme vulnerability of the community as regards access to education and pointed to the fact that schools in this neighbourhood are daily subject to the impact of violence. It concluded that “It is fundamental to invest in a set of strict policies that improve the living conditions of the population.”⁴¹

Economic and social inequality is linked in yet another manner to the treatment Brazil’s poorest citizens receive at the hands of the police. Brazil’s police forces,⁴² and in particular the military police, are poorly paid, poorly trained and entrance requirements are low (in the case of the military police, recruits need only have completed *ensino fundamental*, the first nine years of schooling under the Brazilian system). This means that recruits are drawn from the poorest sectors of society, and thus the principal victims of violence at the hands of the police belong to the same socioeconomic groups from which the police themselves come. 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. Residents of Santo Amaro, Recife’s most “notorious” *favela*, indicated that they knew by sight and name three or four police officers who are involved in providing arms to local gangs. In many cases, these officers simply sell back arms that were confiscated in previous police operations. Other police officers, in an attempt to round up their wages take second jobs, often as private security guards. While this practice – known as *bico* – is prohibited, it is widespread and openly acknowledged by the authorities. *Bico* creates an ambiguous area where police officers – officials of the state – “privatise” their activities and escape what few controls exist to guarantee their ethical conduct. Human Rights Watch reports that in 2008, prosecutors estimated that 70 per cent of all homicides in the state of Pernambuco were committed by death squads which are believed to include police officers among their members.⁴³ The degree of impunity enjoyed by such groups is indicated by the fact that they wear uniforms to identify themselves. One death squad in Pernambuco is said to wear t-shirts with the slogan: “mamãe cria e nos matamos” – mother raises [her children] and we kill [them].

Autos de resistência

In the state of Rio de Janeiro, the issue of police killings justified on the grounds of resistance offered on the part of the suspect (recorded as *autos de resistência* – acts of resistance - by the Civil Police) is of particular concern, and is linked directly to the matter of summary executions. The Special Rapporteur on extrajudicial, summary or arbitrary executions in his preliminary report of his visit to Brazil, on November 2007⁴⁴, expressed particular concern at the designation of killings carried out by the police as acts of resistance:

In most cases, killings by on-duty police are registered as “acts of resistance” or cases of “resistance followed by death”. In 2007, in Rio de Janeiro, the police recorded 1,330 resistance killings, a figure which accounts for 18 per cent of the total number of killings in Rio de Janeiro. In theory, these are instances in which the police have used necessary force proportionate to the resistance of criminal suspects to the orders of law enforcement officers. In practice, the picture is radically different. Whether an extrajudicial execution or a lawful killing has

⁴¹ Plataforma DhESCA – Brasil. Violação dos Direitos educativos da comunidade do Complexo do Alemão. Curitiba, 2008.

⁴² In Brazil there are three police forces – the federal police and a state-governed civil police, responsible for criminal investigations, and the military police, who patrol the streets and also contribute to prison security.

⁴³ Human Rights Watch, World Report 2009 - Brazil, 14 January 2009. Online. UNHCR Refworld, available at: <http://www.unhcr.org/refworld/docid/49705faa78.html>

⁴⁴ The Rapporteur was on mission in Brazil from November 4th to the 14th, 2007 and visited São Paulo, Pernambuco, Rio de Janeiro and the Distrito Federal.

*occurred is first determined by the policeman himself. Only rarely are such self-classifications seriously investigated by the Civil Police. I received many highly credible allegations that specific “resistance” killings were, in fact, extrajudicial executions. This is reinforced by studies of autopsy reports and by the fact that the ratio of civilians killed to police killed is astonishingly high.*⁴⁵

The category of *auto de resistência* has no basis in Brazil’s Penal Code and it is said to have been created precisely to avoid the classification of police killings as homicides. Indeed, the official homicide data produced by the state of Rio de Janeiro’s Civil Police do not include killings carried out by on-duty police officers.⁴⁶ This results in a clear distortion of the state’s homicide statistics, since the number of people killed as a result of police interventions in the state is extremely high.

The large majority of these cases occur in the metropolitan region of Rio de Janeiro, and there is no registry in any other metropolitan region of the world in which police interventions cause a comparable number of victims. The number of such killings is growing annually, and increases were particularly dramatic in 2002 and then again in 2007, when the total victims reached 1,330, a number superior to the index of all homicides in many countries of a similar size. It is important to recall, moreover, that these numbers correspond only to cases where police officers register their actions, and that the real number of deaths (including “disappearances”) at the hands of the police is likely to be significantly higher. These figures also do not reflect homicides of a “private” character committed by police officers in the context of inter-personal disputes, domestic violence etc.

The levels of deaths at the hands of the police in Rio de Janeiro are not only high in terms of international comparison, but also in relation to other Brazilian states. Data from the National Secretary for Public Security indicate that in 2000, Rio de Janeiro had the highest civilian death toll in military police interventions (per thousand police officers) of all the states for which data were available.⁴⁷ The same report indicates that Rio de Janeiro comes second only to the Federal District (Brasília) as regards the number of deaths caused by military police in relation to the overall population.⁴⁸ Extrapolating data such as these across the average duration of a police officer’s career, it is possible to conclude that a significant portion of Rio de Janeiro’s police officers kill at least one person during their professional life. This fact has significant implications for the nature of police “culture” – the creation and reinforcement of ideas and values within Rio’s police forces – as well as for the levels of stress to which police officers are subjected.

In practice, classifying a police killing as *auto de resistência* ensures the impunity of the responsible officer. In investigating the effectiveness of the Military Justice in Brazil, the institution under which killings by the military police are considered, the sociologist Ignácio Cano concluded that it is, “incapable of controlling and punishing abuses of use of lethal force by military police and the crimes related to its use.”⁴⁹ No mechanism exists that can investigate with independence and impartiality and cases of police abuse of force and the classification of killings as *autos de resistência* remains a serious obstacle to the autonomous investigations of police activity.

⁴⁵ Alston, Philip (2008) “Promotion and Protection of All Human Rights, Civil, Political, Economical, 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”. A/HRC/8/3/Add.414 May 2008, para 10.

⁴⁶ Relatório da sociedade civil para o relator especial da ONU para execuções sumárias, arbitrárias e extrajudiciais. Rio de Janeiro, 2007.

⁴⁷ The data available is usually underestimated.

⁴⁸ Report from the civil society to the Special Rapporteur on extrajudicial, summary or arbitrary executions. Rio de Janeiro, 2007. p.9.

⁴⁹ Cano, Ignácio (1997), *Letalidade da Ação Policial no Rio de Janeiro*, ISER, Rio de Janeiro, p.33.

Mega-Operations in Complexo do Alemão and Coréia, Rio de Janeiro

A current public security strategy in Rio de Janeiro involves the use of large-scale, military-style operations against organized gangs in the city's *favelas*. In identifying entire neighbourhoods as targets, these mega-operations, which employ armoured cars and helicopters in addition to heavily-armed police officers and soldiers, represent an extreme evolution of the criminalization of poverty. And while they have caused a high number of civilian deaths due to indiscriminate police action, they have proven to be largely ineffective in achieving their aim of reducing or eliminating organized crime, including trafficking in drugs and arms.

An emblematic case is that of the police *mega-operação* on 27 June 2007 in the Complexo do Alemão in Rio de Janeiro. This 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. Civil society reports that during the operation a total of 78 shots were fired, of which 32 were fired at the backs of victims.⁵⁰ Furthermore, the majority of casualties were hit in vital regions, suggesting that the intention was to execute rather than immobilize them. Appendix 3 provides a full list of the Brazilian citizens killed in this police operation and the type of wound each received. Following this operation, the Special Secretary for Human Rights (SSHR) produced a report that indicated that there was strong evidence to suggest that at least two of those killed in the *mega-operação* in Complexo do Alemão were victims of summary execution at the hands of the police. Indeed, the independent experts called in by the SSHR concluded that, “many of the deaths took place as a process of summary and arbitrary execution.”⁵¹

On 5 July, 2007, eight days after the operation, the press published declarations from José Mariano Beltrame, Rio de Janeiro's Secretary for Public Security, and Gilberto Ribeiro, the Chief of the Civil Police, in which they suggested that human rights organizations investigating the events in Complexo do Alemão were being manipulated by drug traffickers. Beltrame is reported as stating that “I won't be precipitate in affirming that this type of manipulation exists, but I find it strange that the majority of residents did not go to a police station to make a complaint about the excesses [sic]”,⁵² and went on to demand that human rights organizations involved in investigations better verify the circumstances of the operation. Ribeiro confirmed the possibility that human rights NGOs were being manipulated by drug trafficking operations in order to interrupt the police operations.⁵³ Such declarations demonstrate yet another distortion inherent in the criminalization of poverty: in linking human rights organizations with drug trafficking, the authorities also criminalize human rights defenders, and thus undermine their denouncements while camouflaging human rights violations carried out by agents of the State.

On 17 October 2007 a similar operation to that in Complexo Alemão was carried out in Coréia, a *favela* in the district of Senador Camará. According to newspaper reports, this operation, which involved at least 500 police officers, had the goal of finding a weapons deposit and executing arrest warrants.⁵⁴ Once again, the result was lethal: the action resulted in at least 16 deaths, among them four children (including a 4-year-old) and a police officer. In addition eight people were wounded and 14 arrested.⁵⁵ Again, as in the operation in Complexo do Alemão, death certificates issued by

⁵⁰ “Laudos trazem indícios de espancamento, diz OAB.” *Jornal O Globo*, July 6th, 2007.

⁵¹ SEDH – Presidência da República. Relatório Técnico – Visita cooperação técnica. Rio de Janeiro, julho de 2007.

⁵² Comunidade internacional critica atuação da polícia no Rio. Carta Maior, 9 de julho de 2007, http://www.cartamaior.com.br/templates/materiaMostrar.cfm?materia_id=14458&editoria_id=5

⁵³ Comunidade internacional critica atuação da polícia no Rio. Carta Maior, 9 de julho de 2007, http://www.cartamaior.com.br/templates/materiaMostrar.cfm?materia_id=14458&editoria_id=5

⁵⁴ O Dia On Line: “Police mega-operation in Senador Camará ends with 12 dead, 14 arrested”, October 17 2007.

⁵⁵ Newspaper sources: Folha de S. Paulo, “7 die every 2 days in confrontation to the police in Rio”, October 23 2007; “Military Police finds another body in the Korea slum”, October 22 2007; “Operation had more deaths than police

the Legal Medical Institute indicate that the civilian casualties of this operation were the result of gunshots to vital regions such as the head, chest and stomach, suggesting that the specific intention was to kill. Images of the Coréia operation broadcast by the main TV stations appear to confirm that the police intention was to use lethal force: two young men, said to be members of a drug gang, were shown being pursued by a police helicopter before being shot and killed on camera.

5. Militia Control of Poor Urban Areas

Brazil's militias are illegal groups, largely made up of military and civil police officers and ex-officers, firemen, prison wardens and soldiers.⁵⁶ Under the pretext of providing security and protection from drug gangs in the areas in which they operate, their principal purpose is to reap profit through armed coercion of the residents of the neighborhoods in which they operate. Militia groups are particularly present in Rio de Janeiro, where they exercise control over various communities, especially in the poorer Western and Northern Zones of the city.⁵⁷ Their influence is said to be spreading rapidly to adjoining metropolitan areas and municipal districts. Residents of poor neighborhoods in which the State is absent or all but absent are particularly vulnerable to militia activities. These groups coerce residents to pay "taxes" in exchange for protection and security,⁵⁸ in addition to providing services such as cable television, alternative transportation, household gas, and gambling games (slot machines). Residents and community leaders who attempt to oppose the militia's appropriation of their neighborhood are inevitably expelled, tortured, or killed (see also the cases documented in Section 8 of this report).

The growth in militia groups in the state of Rio de Janeiro was particularly marked after 2004, when the state and municipal governments of Rio de Janeiro began to regard the militias as a means by which to combat organized gangs associated with drugs trafficking and hence as the "lesser of two evils". Although there is still no precise or consensual definition,⁵⁹ the term "militia" became more concrete in the public mind after a series of attacks in late December 2006 in Rio de Janeiro that were attributed to certain "drug dealers" responding to the growth of militias in the city. According to newspaper sources, a report from the city of Rio de Janeiro's Undersecretary for Intelligence identified 92 militia-controlled communities at that time.⁶⁰ A significant shift in both the State and public perception of Brazil's militias took place in May 2008 following the abduction and torture of two journalists engaged in investigating militia operations by members of a militia group controlling the Batan *favela* in Rio de Janeiro's Western Zone. Subsequently the journalists reported that, during their ordeal, they saw individuals wearing military police uniforms. This event had important repercussions,⁶¹ drawing attention to militia groups' stranglehold on certain *favelas* and their systematic violation of the human rights of the population of these areas. It also confirmed the

⁵⁶ The Special Rapporteur on extrajudicial, summary or arbitrary executions describes the involvement of police in criminal organizations such as militias and extermination groups in his preliminary report on his visit to Brazil in November 2007. See Alston, Philip (2008) "Promotion and Protection of All Human Rights, Civil, Political, Economical, Social and Cultural Rights including the Right to Development. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions Mr Philip Alston. Addendum. Mission to Brazil". A/HRC/11/2/Add.2 future, 29 August 2008, Advance unedited version,

⁵⁷ Campo Grande and Jacarepaguá, for example.

⁵⁸ Ignácio Cano's research shows that the greatest number of denouncements sent to the *disque-denúncia* (telephone denouncements) between January 2006 and April 2008 were to do with the crime of extortion (19.5 per cent) of the total. After this the issues most frequently denounced were deviation of conduct, possession of illegal firearms and homicide.

⁵⁹ Relatório da Sociedade Civil para o Relator especial das Nações Unidas para Execuções Sumárias, Arbitrárias e Extrajudiciais. Rio de Janeiro, 2007. Exploratory research coordinated by the sociologist Ignácio Cano in 2008 on the phenomenon of militias in Rio de Janeiro defined the five main characteristics of militia groups as: 1) control of a territory and its inhabitants by an illegally armed group; 2) control over the residents of the area is achieved through coercive means; 3) the prospect of individual profit is the main motivation of the group's members; 4) the discourse justifying their actions refers to the protection of the inhabitants and the establishment of an order that, like every order, guarantees certain rights and excludes others, but permits that rules be created to normalize conduct; and 5) the active and recognized participation of agents of the State.

⁶⁰ *O Globo* on line 10/12/2006. Milícias expulsam os traficantes de drogas e já controlam 92 favelas da cidade. <http://oglobo.globo.com/rio/mat/2006/12/09/286975035.asp>

⁶¹ The Brazilian Bar Association, the Brazilian Press Association and the Ministry of Justice condemned the torture, and professional organizations condemned the government's tolerance of the militias.

close relationship between the militias and the State's public security machine. Indeed, the ambiguous relationship between militias and the State is apparent in the use these groups make of state security equipment, including weapons and police cars, and in the collaboration between the police and militias to establish control over communities in Rio de Janeiro.⁶²

In the latest phase of militia activity, rival groups are increasingly engaging in armed conflict for control of territory. Public security statistics indicate that there is an increase in the number of homicides in disputed areas, and the media increasingly carries stories on this theme. In 2008, there were 962 and 955 homicide cases respectively in the socio-economically disadvantaged Northern and Western Zones of Rio de Janeiro where militia groups are most active. In the same period, there were 50 homicides in the Southern Zone.⁶³ These figures clearly give the lie to the security justification employed by militias, just as the expansion of these groups into certain areas which are free from drug trafficking undermines their claim that their purpose is to suppress the drugs trade.

The shift in perception as regards militia activity is manifested in the decision on the part of the State of Rio de Janeiro to establish a Parliamentary Commission of Inquiry into the activities of militias. The final report of this Commission, which was presided by State Deputy Marcelo Freixo (who, as discussed in Section 8, has himself been the subject of death threats), was submitted in December 2008, and indicates by name 226 individuals involved in militias as well as mapping 117 areas dominated by these armed groups.⁶⁴ The report confirms that one of the militia's main sources of finance is derived from the control of public transport, through extortion and menaces directed at the cooperatives that provide this service. The report indicates that in one day a militia earned US\$77,000 (R\$169,500) from its control of a transport cooperative in Rio das Pedras, suggesting an overall profit of more than US\$27 million (R\$60 million) in one year. There is strong evidence that children and adolescents are being recruited by members of militias to sell tickets on vans used for unregulated alternative transport and that this, in turn, is contributing to school dropout in militia-controlled areas.⁶⁵ The report of the Commission of Inquiry asserts that, "Almost fifteen years after it first appeared, alternative transport remains a land without law".⁶⁶

The privatization of security services in Brazil is also closely related to the expansion of militia groups. According to data cited in the Commission of Inquiry's report, it is estimated that between 1,200,000 and 1,800,000 people are engaged in the provision of private security throughout the country, the large majority of whom – whether engaged in regulated or unregulated operations – are police officers, former police officers and members or ex-members of the armed forces. There is, however, an important difference in the businesses that offer private security to middle class areas and those that operate in the poor neighborhoods controlled by militias. In the former, the residents generally have a choice as to whether they should hire a private security service and, if so, which. In

⁶² The appropriation of a neighbourhood by a militia group is often preceded by police operations in the same area to reduce possible resistance from organised gangs. The prison system is also vulnerable to militia corruption. On 28 October, 2008, Ricardo Teixeira Cruz, ex-policeman and known assassin for the powerful "Justice League" militia, escaped from a high security prison through the main gates. Statements have been taken that his escape was facilitated after paying R\$ 2 million to prison guards and other public officials. See *Extra on line*, 28 October 2008, "Ricardo Batman fuge do presídio Bangu 8". Available at: [http://extra.globo.com/geral/casodepolicia/post.asp?t=ricardo batman fuge do presidio bangu 8&cod Post=136202 &a=443](http://extra.globo.com/geral/casodepolicia/post.asp?t=ricardo+batman+fuge+do+presidio+bangu+8&cod+Post=136202&a=443)

⁶³ Instituto de Segurança Pública. Available at: www.isp.rj.gov.br

⁶⁴ ALERJ. Relatório Final da Comissão Parlamentar de Inquérito destinada a investigar a ação de Milícias no âmbito do estado do Rio de Janeiro. Novembro, 2008.

⁶⁵ *O Globo* on line. 14/02/2009. Jovens trocam banco escolar por de Kombis das Milícias da Zona Oeste. Available at: <http://oglobo.globo.com/rio/mat/2009/02/14/jovens-trocam-banco-escolar-por-de-kombis-das-milicias-na-zona-oeste-754416305.asp>

⁶⁶ O Relatório da PCI das Milícias afirma: "o transporte alternativo, quase 15 anos após o seu surgimento, é terra sem lei." (ALERJ, p.112).

contrast, in poor areas, families and owners of small businesses have no alternative but to pay the security taxes levied by the militia if they wish to avoid reprisals that range from intimidation to aggression, violence or even expulsion from their homes. The report of the Parliamentary Committee of Inquiry affirms that militias sell “protection” from the violence that they themselves perpetrate.⁶⁷

The economic exploitation of Brazil’s poorest urban citizens at the hands of militia groups is compounded by their coercion for political ends. Militias exercise a strong control over the electoral process in large parts of the city of Rio de Janeiro, and their leaders are said to maintain a close relationship with certain government representatives and to exchange favours with members of the legislative and judicial branches. There are both political representatives⁶⁸ and senior officers in the police⁶⁹ who have been arrested for their involvement in the leadership of militia groups.

The political links of militia groups are particularly clear in the phenomenon of *currais eleitorais*, by which residents of a militia-controlled area are coerced into voting for the candidates selected and supported by the militias. Indeed, in many cases the leaders of militia groups propose themselves as candidates for political posts. Influence over the electoral process is also achieved through the establishment of political “machines” that operate through social centres established by politicians or others in militia-controlled areas. These centres, a physical symbol of militia influence over disadvantaged neighbourhoods, provide services and carry out social actions in the vacuum left by the State. An electoral map for 2008 included in the report of the Parliamentary Commission of Inquiry illustrates the close correspondence between areas dominated by militia groups and the election of candidates who have subsequently been indicted for their involvement with these same groups.⁷⁰

The final report by the Parliamentary Commission of Inquiry into Militias asks that the Regional Election Tribunal adopt “emphatic” preventive measures in future elections to ensure that they remain free from the influence of illegal groups, as well as undertake comparative studies of abnormal voting patterns for all candidates.⁷¹ As a result of the evidence presented by the Commission of Inquiry, the Public Ministry for Elections has requested that the relation between certain political candidates and militia groups be rigorously investigated.

⁶⁷ ALERJ, pp.123-124

⁶⁸ In March 2009, Rio de Janeiro state representative Natalino José Guimarães (PMDB) and his brother, councillor Jerônimo Guimarães Filho (DEM), were condemned to 10 years and 6 months of prison by the judge Alessandra de Araújo Bilac Moreira Pinto for the creation of an armed gang. Other politicians cited by the Parliamentary Commission of Inquiry for involvement in militia groups include: Josivaldo Francisco da Cruz (DEM), known as Nadinho, a councillor who draws a high number of votes from the Rio das Pedras area, in the Western Zone of the city; and Cristiano Girão Matias (PTC) who ran as a councillor in 2008 but was not elected. He is accused of commanding a militia in Gardênia Azul, also in the Western Zone.

⁶⁹ The participation of police leadership in illegal activities and organized crime became evident with the arrest by the federal police of Álvaro Lins, chief of the Civil Police from 2000 to 2006 and other members of the civil police on 29 May, 2008. They were accused of involvement in corruption, money laundering, the formation of armed gangs, passive corruption and aiding in contrabanda activities. These accusations caused Lins’s mandate with Rio de Janeiro’s Legislative Assembly to be terminated on 11 August, 2008 on the grounds of that he had broken parliamentary decorum. The Federal Police report points to a clear connection between Lins and militia groups in the state. On 11 March, 2009 Lins was expelled from the civil police. See Agência Brasil, 30 May 2008, “Deputado Álvaro Lins é solto depois de determinação da Assembléia Legislativa do Rio”, available at:

<http://www.agenciabrasil.gov.br/noticias/2008/05/30/materia.2008-05-30.9597920800/view> and *GI*, 11 March 2009.

“Álvaro Lins é demitido da polícia civil”, Available at: <http://g1.globo.com/Noticias/Rio/0..MUL1038964-5606.00.html>

⁷⁰ ALERJ, pp.123-124

⁷¹ ALERJ, p. 110.

5. Economic, Social and Cultural Rights and the Prison System

The profile of Brazil's prison population

The Brazilian prison system, a fundamental element in the perpetuation of the cycle of poverty and violence, is a mirror of the society that has produced it, reflecting as it does Brazil's severe socioeconomic disparities. In short, the inevitable outcome of the criminalization of Brazil's poorest citizens is their incarceration in a penal system that serves to exacerbate inequality, consolidate exclusion and reinforce prejudice rather than re-socialize and integrate.

According to data provided by the National Penitentiary Department (DEPEN), an organ associated with the Ministry of Justice, in the first semester of 2008 the total prison population in Brazil was 440,013, of which 381,112 were held in the country's prison system and 58,901 were held in police cells. On this basis, Brazil has the fourth largest prison population of all countries in the world. Of the total number of detainees held in prisons (i.e. excluding those in police cells), 130,745 were in pre-trial detention. This means that more than one third of the Brazilian prison population is made up of prisoners who have not been condemned definitively. Between 2003 and 2007, the number of prisoners in pre-trial detention grew dramatically, from 67,549 to 127,562, and increase of 89 per cent (compared to an increase of 37 per cent growth in the general prison population). Data such as these demonstrate the growing challenge Brazil faces in dealing with its prison population and point to the promotion of punitive practices and the lack of public policies to address this situation.⁷² They also reflect the delays inherent in the Brazilian justice system and, importantly, the inadequacies of the country's legal aid system.

Legal aid is a crucial mechanism for ensuring that the poorest citizens are not incarcerated for the simple fact that they cannot afford to take legal defence. The Brazilian Federal Constitution (Article 134) clearly lays out the principles and requirements of legal aid and underlines its role in guaranteeing access to justice access for those who do not possess the means to pay for a private lawyer. Nevertheless, there are states, including Goiás and Santa Catarina, which do not have organized and established legal aid systems. In other states, the number of legal aid professionals is negligible - a situation that is particularly serious in smaller cities and towns that are distant from the country's principal urban centres - and their conditions of employment are far from secure. These shortfalls, reinforced by discriminatory policing practices, contribute to ensuring that the vast majority of the population of Brazil's prisons are from the country's most disadvantaged groups.

The vulnerability of the Brazil's poorest and most marginalised citizens to imprisonment is demonstrated by statistics issued by DEPEN that indicate that the typical prison inmate is young, Afro-Brazilian and very poor. In terms of age groups, 32 per cent of adult prisoners are between 18 and 24 years old; 26 per cent between 15 and 29 years old; 18 per cent are between 30 and 34 years old; 15 per cent between 35 and 45 years old; and 6 per cent are between 46 and 60 years old.⁷³ As regards education level, 8 per cent of prisoners are illiterate, and another 14 per cent are literate, but have no other educational qualification. As many as 45 per cent did not finish elementary school, while another 12 per cent completed their elementary education but did not go on to high school, and only 7 per cent have a high school diploma. The racial composition of Brazil's prison inmates is

⁷² Ministry of Justice, DEPEN, InfoPen, Consolidated Data 2008.

⁷³ 1 per cent of prisoners are over 60 years of age, and for the remainder there was no information available.

also striking. It is estimated that 40 per cent are white, while almost 60 per cent are Afro-Brazilian.⁷⁴

The types of crimes for which people are imprisoned also has a bearing on the socioeconomic profile of Brazil's prison population. Data from the Ministry of Justice indicate that 19 per cent of prisoners were sentenced for aggravated robbery (*roubo qualificado*), followed by 14 per cent imprisoned for dealing in narcotics and 13 per cent for extortion by means of kidnapping. These figures suggest that a large proportion of the prison population is incarcerated for crimes typically associated with socioeconomically disadvantaged groups, while crimes typically associated with wealthier groups, including white-collar crime, is less likely to lead to imprisonment. This conclusion is reinforced by the findings of a Parliamentary Commission of Inquiry established at the end of 2007 by the House and Senate with the objective of investigating the Brazilian prison system. After undertaking inquiries in 18 states and visiting more than 60 prison units, the Commission published a final report in which it underlined the fact that Brazil's poor make up the majority of the prison system, while white collar and similar crimes are much less likely to bring a prison sentence.⁷⁵

Prison conditions

Within the country's prison system, the most serious problems include high levels of overcrowding (taken together, the total capacity of prison facilities and police cells is 277,847⁷⁶ compared with a total prison population of 440,013); inadequate and unhygienic cells; insufficient and poor quality nutrition; limited or absent legal assistance; inadequate or inexistent health care; lack of educational or work activities; lack of separation between different categories of prisoners (pre-trial or condemned); inadequate supervision by prison guards; and extreme violence among inmates (including extortion, beatings, rape and murder). Prison staff, responsible for guaranteeing security inside the country's prisons, do not receive adequate training, and in many cases enter the system through temporary or emergency hiring. This happens despite the fact that the Brazilian Constitution expressly requires that recruitment to these positions be by public competition.

Of the total prison population, it is estimated by the Ministry of Justice that only 5 per cent (21,439) are engaged in external work programs, that is, programs outside of the penal establishment that can help support a prisoner's eventual social reintegration. Furthermore, only 16 per cent of prisoners (71,608) are engaged in internal work, such as contributing to the running of the prison unit, and producing handicrafts, among other activities. This means that the large majority of detainees in Brazil's prison system (some 347,000 people) are without any form of work or activity.⁷⁷

If all these factors were not enough, the UN Committee Against Torture indicates in its report on its members' mission to Brazil in 2005 that torture and other forms of cruel, inhuman or degrading treatment or punishment of prisoners are systematically practiced by prison staff. Appendix 4 details two cases of torture and death in Brazil's penal system, including the death of a minor. Impunity lies at the heart of this widespread practice. In most cases, charges of violence against prisoners are not investigated efficiently and penal, administrative and civil accountability of those who violate the personal integrity and life of the prisoners, is non-existent. In this context, it is important to point out that the Brazilian State signed the Facultative Protocol of the UN Convention

⁷⁴ Afro-Brazilian is here used to refer collectively to prisoners classified in official statistics as being of black or brown skin colour (17 and 41 per cent of the prison population respectively). Persons of Asian origin account for under 1 per cent of the prison population, and indigenous persons make up under 0.2 per cent. The Parliamentary Commission of Inquiry's Final Report (CPI) which investigated the Brazilian prison system in 2008, p.59

⁷⁵ The Parliamentary Commission of Inquiry's Final Report (CPI) which investigated the Brazilian prison system p.33

⁷⁶ Ministry of Justice month reference – June, 2008

⁷⁷ Justice Department, DEPEN, InfoPen month of reference – June, 2008

against Torture (OPCAT) on 13 October, 2003 and ratified it on 12 January 2007, but to this day this international regulation has not been implemented.⁷⁸

Incarceration not only compromises the physical integrity and the economic, social and cultural rights of prisoners themselves, but also jeopardises the socio-economic wellbeing of their families and dependents. During the preparatory mission, Sonia, who lives in the neighbourhood of Benfica in Rio de Janeiro, explained that her husband was arrested in October 2008 on suspicion of receiving stolen goods. She is now left to look after four children, in addition, to provide such items as soap, toilet paper, shaving cream and razors for her husband. She sketched out an impossible financial situation whereby her only regular income is the R\$ 90 (US\$ 40) per month she receives from the *Bolsa Familia* for her children attending school. On top of that, she tries to find work where she can, but this is normally nothing more than a day's cleaning for which she will receive some R\$ 60. The week we met with her she did not anticipate receiving any work. At the same time, and in addition to her family's basic needs, she has to meet the cost of a lawyer, of buying provisions for her husband at the market and of travelling to see him four times a month (at R\$10 per round trip). Crucially, she must also find R\$ 150 per month to pay her rent in the *favela*, and she explained that she is already in arrears with her payments. She knows that if this situation continues, she and her children will eventually lose their home. Sonia's story is not exceptional, and it is therefore no surprise that women with a partner in prison risk becoming involved in drug dealing or other illegal activities in order to support their families.

Vulnerability of incarcerated women and children

Of Brazil's prison population, children and adolescents detained in *unidades de internação* (juvenile detention centres) are among the most vulnerable both to violence and to violations of their economic, social and cultural rights. They must contend with extremely poor conditions, including poor nutrition and living conditions and, despite clear legal provisions to the contrary, they are in practice excluded from adequate schooling. A study carried out by the Instituto de Pesquisa Econômica Aplicada in 2002 of 190 juvenile detention centres in Brazil with respect to the minimum standards established by the United Nations found that 71 per cent of such centres failed to provide the minimum conditions as regards physical infrastructure and medical, legal and educational facilities. Of the 10,000 adolescents included in this survey, 18 per cent were aged between 12 and 15 years of age, 76 per cent between 16 and 18, and 6 per cent between 19 and 20. Of this total, as many as 89.6 per cent had not completed primary school (*ensino fundamental*, normally between the ages of 5 and 14), and 6 per cent were illiterate. Only 7.6 per cent has started *ensino médio* (high school, normally from 14 years onwards).⁷⁹

The situation as regards women prisoners is also of particular concern. There are some 27,000 female prisoners in Brazil, representing 6 per cent of the total prison population. Statistics compiled by the Ministry of Justice in April 2008 reveal an alarming upward trend in these numbers: in the four prior years, the population of women prisoners grew by 37.5 per cent, a significantly greater increase than that of the male prison population. Prison facilities are inadequate to cope with this rapidly growing population, and in October 2007 it was estimated that there were 48 per cent more women prisoners than there were places available in the country's prisons, while the deficit for the male prison population was 37 per cent. Only 16 per cent of the new prison places due to be created by the National Penitentiary Fund are destined for women.

⁷⁸ One of the pillars of the prevention of torture established in the Protocol is the creation of a National Preventive Mechanism by the State party, the main role of which would be to carry out periodic visits and monitor the conditions of the deprivation of freedom throughout the entire country.

⁷⁹ Instituto de Pesquisa Econômica Aplicada, cited by Children and Youth in Organised Armed Violence (COAV), "Estatísticas – Brasil: Taxa de homicídios entre jovens quase dobrou nos anos 90" <http://www.coav.org.br/publica/cgi/cgilua.exe/sys/start.htm?inford=1385&tpl=printerview&sid=3>

In Brazil, there are 508 penal establishments in which woman are detained, but of these only 58 are exclusively for female prisoners. In the mixed establishments, there are pavilions and cells adapted for woman, however it is reported that the differences between facilities for men and woman are only superficial. Thus, for example, only 27 per cent of the establishments have a structure to meet the needs of pregnant women, 20 per cent have nurseries, and only 16 per cent provide daycare facilities. Despite these limited facilities, there are newborn babies in most of the women's prisons in the country, and the Parliamentary Commission of Inquiry into Brazil's prison system confirms that many of them are living in subhuman conditions. The Commission reported that in Bom Pastor Colony in Recife, a 6 day old baby was seen sleeping on the floor, in a mouldy, overcrowded cell, on top of some sheets spread on the floor.

In the state of Pará, a 15 year old girl, Lidiany, was held for more than 30 days in the Public Jail of Abaetetuba together with some 20 male detainees. She was repeatedly tortured and raped in front of the authorities that administrated the unit. The girl was finally rescued by the guardianship council for children and adolescents (*conselho tutelar*). This case gained was widely covered by both the national and international press and drew attention to the fact that Brazil's prison system is unable to providing for the requirements of women and to protect their basic human rights. This despite the fact that special facilities and protection for woman are clearly foreseen under Brazilian law.⁸⁰

Women prisoners are also reported to have very limited access to hygiene and health care products such as toilet paper, sanitary towels, condoms and medication. And while family visits for prisoners are foreseen under Brazilian law, only 38 per cent of female prisoners receive such visits, compared to 86 per cent of men, contributing to the isolation of women inmates and reflecting the impact that imprisonment has on women's affective relations and family structure. Moreover, very few women's prisons offer adequate facilities for intimate visits, another factor contributing to the social and psychological isolation and the breakdown of family units.

Urso Branco Prison, Porto Velho, Rondônia State

An emblematic case regarding the reality of Brazilian prisons – and one reported to both the Inter-American Commission and the Court for Human Rights Court, as well as to the UN Special Rapportuer on extrajudicial, summary or arbitrary executions – is the situation of the detainees in Urso Branco prison in Brazil's Northern Region.

On 7 October 2008, the Prosecutor General of the Republic, Dr. Antônio Fernando Barros e Silva de Souza solicited the Supreme Federal Court (Supremo Tribunal Federal) to make a federal intervention in the state of Rondônia, based on articles 34, VII, "b" and 36, III, of the Federal Constitution. These constitutional provisions authorize exceptional interceptive measure to protect the human person's dignity. This means that the maximum authority of the Federal Public Ministry, understanding that the state of Rondônia was directly and repeatedly violating human rights, solicited the Brazilian Supreme Court to determine the Federal Union's intervention in this state, temporarily breaking the federal pact.

⁸⁰ This dramatic reality violates the ensured precepts in the Brazilian legislation. The law governing prison facilities – Lei de Execução Penal (LEP) - establishes that women should be taken into individual and adequate establishments according to their personal condition (article 82, §1). LEP also determines that the penal establishments destined for women have a nursery where women can breastfeed their children (article 83, §2). In addition, this law asserts that a women's prison should have sections for pregnant and women in labour, as well as daycare sections for young children (article 89). Article 5 L of the Federal Constitution contains the same concept, and stresses that prisoners shall have safe conditions to be with their children during breastfeeding.

This request was made on the grounds of severe violations of the human rights of prisoners of the José Mário Alves Prison, popularly known as *Presídio Urso Branco*. As the Federal Intervention request states, the Prosecutor General reported rebellions, massacres, violent deaths, summary executions and torture that occurred in the unit between 2000 and 2007. He also narrated the terrible conditions the prisoners face: overpopulation, insalubrious cells, lack of ventilation, scarce water access, the problem with the lack of quantity and quality of the food, not enough sunlight, insufficient quantity of hygiene materials and mattresses, inactivity (none of the prisoners are able to work or study), lack of separation between pre-trial and condemned prisoners, humiliating treatment in terms of visits, precarious medical and deontological care, insufficient free legal assistance and finally, reduced number of penitentiary agents.

Still in the year of 2002, the lack of State control over the prison and the severe violations of the prisoners' human rights were announced by the Global Justice and the Justice and Peace Commission of the Archdiocese of Porto Velho (CJP) to the Inter-American Commission on Human Rights of the Organization of the American States (OAS). In that same year, the Brazilian State was ordered by the Inter-American Court on Human Rights to implement temporary measures that guarantee life protection and personal integrity of the Urso Branco prisoners, the investigation of the crimes that occur inside the unit and the adaptation of the prison according to the international norms of protection of the prisoners' human rights.

The procedures that are in transit in the Inter-American System for the Protection of Human Rights, installed by Global Justice and CJP initiatives, contribute directly to the request of Federal Intervention formulated by the Prosecutor General, whether in the form of convincing in the sense of the necessity of soliciting the intervention or in the content of the arguments exposed in the petition directed to the STF. In the same way, the result of the process that analyses the appropriateness of the intervention shall have repercussions in Case 12,568 – Prisoners of the Presídio Urso Branco, Brazil, that is still under observation of the Inter-American Commission and also under analysis, the accomplishment of temporary measures already determined by the Court.

The petitioner organizations of the Inter-American System are convinced that the Federal Intervention is a measure of extreme necessity and for that they hope that the Supreme Federal Court finds the Procurator General's request agreeable. For this reason, they solicited participation in this process in terms of the Procurator General's assistants and at this moment, they are waiting for the Court's decision regarding this request. All of the over one hundred (100) murders that occurred inside the Urso Branco Presídio since 2000 and the absolute impunity of the crimes committed, show the importance of an immediate answer regarding the chaotic situation the prisoners live in, not only in Urso Branco but in all the prison units in the state of Rondônia.

Polinter Cells and the 76th Police Station, in the state of Rio de Janeiro

Global Justice – in partnership with the Association in favour of Prison Reform (ARP), Torture Never Again Group of Rio de Janeiro, Association of the Public Defensors of the State of Rio de Janeiro (ADPERJ) and Laboratory of Violence Analysis of the State University of Rio de Janeiro – solicited Precautionary Measures to the Inter-American Commission on Human Rights due to the serious violations of human rights that the prisoners in the Civil Police cells suffered at Polinter and the 76th Police Station. The first is located in the city of Rio de Janeiro and the other in Niterói, both in the state of Rio de Janeiro. On 6 November 2005 and 6 June 2006, it was determined that cautionary measures should be respectively taken, in the Polinter jail and in the 76th Police Station jail, to ensure that the Brazilian Government protect the life and physical integrity of all persons deprived of liberty in these facilities.

The situation experienced by the prisoners in those jails was very similar: the ones who suffered serious and contagious illnesses had no guaranteed health treatment, such as medical consultations, providing medication, isolation in appropriate areas for recuperation among other measures. Besides this, both jails were overcrowded, with a much higher number of prisoners than the capacity of these units. These prisoners lived in small cells, in terrible and unsanitary structural conditions, what led to great tension and violence.

When authorizing the precautionary measure in the areas mentioned, the Inter-American Commission determined that 1) the Brazilian Government (and the Government of Rio de Janeiro in particular) immediately adopted the necessary measures to protect the life and personal integrity of all prisoners; 2) immediately suspend the entrance of new prisoners; 3) provide transference to the condemned and recaptured prisoners that were in jail for the prison system of the state of Rio de Janeiro; 4) carry on the transfer of prisoners that were sick to a hospital; 5) provide the transfer of a significant amount of prisoners of the jails with the purpose of reducing the overpopulation that threatened the life and physical integrity of the prisoners. Given the complaints from the civil society entities and the Commissions determinations, Brazil finally approved the closing of the Polinter and the 76th Police Station jails, the first one in January and the second in December 2006.

7. Violence Against Women

In Brazil in particular, unequal social relations ... are manifest in the use of violence as an instrument of subordination of certain social groups, often in the form of extermination, as is the case for the indigenous population; of physical violence, in the case of the black population; and of physical and sexual violence, in the case of us, women.

SOS Corpo, Instituto Feminista para a Democracia⁸¹

The State of Pernambuco has a particularly high homicide rate for women: almost 2000 were murdered between 2002 and 2007,⁸² equating to an average of 300 women killed per year, or 25 per month.⁸³ An analysis of these crimes indicates that domestic violence, committed by partners or family members was the principal factor behind these murders.⁸⁴ Firearms were used in two thirds of all cases.⁸⁵

Within the State, two thirds of the homicides of women take place in the Metropolitan Region of Recife.⁸⁶ More specifically, these crimes are concentrated in socioeconomically marginal urban areas where the population has little access to security or justice.⁸⁷ An analysis by SOS Corpo, a Recife-based NGO, of 457 cases where information was available on the economic occupation or activity of the murdered woman indicates that 65 per cent of victims looked after the home, were engaged in the informal sector or were unemployed. Only 14 per cent of victims were engaged in the formal sector.⁸⁸

Violence against women in Brazil's *favelas* and other poor urban areas is closely linked to issues of economic insecurity, the absence or insufficiency of public services, high levels of crime, and the oppressive strategies of the police.⁸⁹ Indeed, the fact that police interventions are often marked by extreme and arbitrary violence makes it unlikely that women, particularly poor women, will regard them as a protective element. In any case, making a complaint to the police against a partner or ex-partner may bring violent retribution on a woman, especially if the man in question is linked to a criminal gang. Even women's groups who denounce such violence put themselves at risk.⁹⁰

⁸¹ SOS Corpo, *Enfrentando a cultura, cuestionando o Estado: por uma vida sem violência*, Dados e Análises, IV, no. 8, November 2008, p. 2

⁸² 2007 saw a slight drop in the number of women murdered in the state (to 305, from 335 in 2006). It is still too early to say whether this decrease marks a new trend, however if this is the case, it corresponds with the implementation of the Pacto pela Vida, a government policy specifically developed to reduce intentional lethal crimes, and the promulgation of the Maria da Penha law on domestic violence, as well as the establishment of the State of Pernambuco's Secretariat for Women (*Secretaria da Mulher do Estado de Pernambuco*), which has identified addressing violence against women as one of its priorities. At the same time, it may also reflect intense civic society mobilization around the question, led by the Women's Forum of Pernambuco and a range of women's groups. SOS Corpo, *Desafios ao monitoramento das políticas públicas*, Dados e Análises, IV, no. 7, September 2008, p. 5

⁸³ SOS Corpo, *Desafios ao monitoramento das políticas públicas*, Dados e Análises, IV, no. 7, September 2008, p. 2

⁸⁴ SOS Corpo, *Desafios ao monitoramento das políticas públicas*, Dados e Análises, IV, no. 7, September 2008, p. 2

⁸⁵ SOS Corpo, *Desafios ao monitoramento das políticas públicas*, Dados e Análises, IV, no. 7, September 2008, p. 2

⁸⁶ Based on data from 2002 to 2005. SOS Corpo, *Informações para o fim da violência contra as mulheres*, Dados e Análises, III, no. 5, May 2007, p. 3.

⁸⁷ SOS Corpo, *Desafios ao monitoramento das políticas públicas*, Dados e Análises, IV, no. 7, September 2008, p. 2

⁸⁸ SOS Corpo, *Desafios ao monitoramento das políticas públicas*, Dados e Análises, IV, no. 7, September 2008, p. 6

⁸⁹ While information on violence against women in urban areas is relatively easy to obtain, much less is known about the ways in which violence affects women in rural areas, or women from indigenous communities.

⁹⁰ Observations based on information from women's organisations in Recife, Rio de Janeiro, Salvador and São Paulo. SOS Corpo, *Enfrentando a cultura, cuestionando o Estado: por uma vida sem violência*, Dados e Análises, IV, no. 8, November 2008, pp 4-5

Another factor explaining the high levels of lethal violence against women in urban areas is the ubiquity of firearms. While middle- and high-income groups possess guns, their use tends to be more carefully controlled than in poor areas, where they are commonplace objects. One interviewee even described firearms being used as toys by small children. Another woman told of being raped by her partner at gunpoint. The facility with which firearms are employed to resolve what would otherwise be relatively minor disputes is illustrated by the story of Leandra, whom we met in a safe house in Recife. Leandra, 21 years old, suffered serious damage to her pancreas and liver as a result of a shot to her abdomen sustained when she stepped in front of a friend to protect her from a young woman who was threatening her with a pistol. The motive behind the incident was a banal dispute over a young man.

Women from poor households, or with little or no economic independence, are not only particularly vulnerable to violence, they also have limited scope to escape it. A woman from the city of Olinda who has undergone 21 years of systematic violence – including sexual violence - at the hands of her husband explained how women were tied to their partners by a combination of economic and cultural factors: “the men will not leave their homes, and the women cannot”. And a woman with few economic resources who is forced out of her home risks becoming vulnerable to yet other forms of violence.

Domestic violence, and violence against women in general often does not receive the attention it merits from the Brazilian police, who are generally poorly trained to deal with this question and who may even regard being assigned to this issue as a punishment. Their inertia is often still greater when the victim, or potential victim, comes from a poor neighbourhood. Another woman we interviewed in Olinda, who lives in a *favela* area, explained that she is forced to hide away knives and other potential weapons from her husband who becomes extremely violent when he drinks. She told us that, “when I dial 190 [the military police] nobody comes.” A woman who goes in person to a police station is not guaranteed to receive better treatment: in the course of the preparatory mission we were told that women reporting domestic violence at police stations are regularly told to return home and to try to “understand” their husband or partner or, failing that, to “leave home”. Women also complain that police prejudice and moral judgements can distort the categories of “victim” and “criminal” with the suggestion that a woman may have “deserved” or “asked for” her treatment. During a visit to the small town of Agua Preta in the agricultural hinterland of Recife, women even spoke about their fear of going to the police station because of the treatment they received there. We also met with the niece of a woman who had made five separate complaints to the police regarding the domestic violence to which she was subjected. She was finally murdered by her partner.

It is worth noting that the police are equally unprepared when it comes to issues of violence against children, indeed they often focus more on crimes *by* children than crimes against children.

The police in Brazil are not alone in failing to respond effectively to violence. Other public services have received criticism, and it is reported, for example, that health professionals fail to recognise violence against women as an element contributing to their illness or even to death. It was also suggested in the course of the preparatory mission that women from the poorer sectors of society, and particularly poor black women, are not always given the same priority for medical treatment as others when they visit hospital.

Much of the support for women victims of violence in Brazil is provided by civil society organisations, although most do not have the capacity to meet the demand for their services. At the same time, services provided by the state are insufficient and poorly distributed across the country. A survey by SOS Corpo of the six basic forms of services for woman victims of violence

demonstrated significant discrepancies between the metropolitan regions of São Paulo and Recife. In particular SOS Corpo points to the complete absence of basic orientation services for women victims of violence in Recife compared to 11 such facilities in São Paulo. This is of particular concern given that these services generally act as “entrance points” and can direct women to other specialised services, including legal, psychosocial and health services, as well as to refuges or safe houses. Specialised police services with staff trained in registering and investigating cases and enforcing judicial decisions are also seriously lacking, as many of the women interviewed in Recife, Olinda and Agua Preta pointed out: Recife has two police stations specialised in dealing with issues of violence against women - *Delegacias Especializadas de Atendimento a Mulher* - and there are only four in the entire state of Pernambuco, while São Paulo has 22.⁹¹ The availability of Government services is said to be heavily influenced by political priorities and facilities are vulnerable to being established or dismantled according to election results, creating instability and preventing the effective development of an adequate network of services and support.

Women’s organisations in Brazil underline that efforts to address violence against women must not be treated in isolation. The issue is a cross-cutting one and hence must be seen as an integral part of public security policies as well as a key element in initiatives to promote human rights in the country.

⁹¹ SOS Corpo, *Informações para o fim da violência contra as mulheres*, Dados e Análises, III, no. 5, May 2007, pp6-7

8. Violence Against Human Rights Defenders and Social Movements

*Human rights defenders are constantly under threat. In some cases I have already lost friends. For me, it's clear that obstructing the work of human rights defenders threatens democracy throughout the world.*⁹²

Marcelo Freixo,
State legislator, Rio de Janeiro, President of the Rio de Janeiro Legislative Assembly's Parliamentary
Commission of Inquiry into Militias, and human rights defender

For a period of 21 years, between 1964 and 1985, Brazil was under a military regime. During this time, thousands of people were jailed and tortured, others were forced to leave the country, and several hundred at least were killed. Many of those interviewed during the preparatory mission pointed to the fact that the mentality and *modus operandi* of the armed forces, including the military police, has evolved little since the military dictatorship. Indeed, the armed forces have never apologised for their involvement in the regime, there have never been any investigations into the crimes committed during this period, and documents from the dictatorship remain classified.

One of the principal aims of the civil society organisation Grupo Tortura Nunca Mais (Torture no More) with whom we met during the mission, is to pressure for the opening of the State archives for the period of the military regime and to end impunity with respect to the crimes committed. Members of Tortura Nunca Mais, like representatives of other civil society organisations, spoke of the phenomenon of the criminalisation of social movements and of human rights defenders engaged in protecting and promoting the human rights of Brazil's poor and excluded groups, a phenomenon which they attribute to the heritage of the military dictatorship and, more specifically, to the fact that any form of contestation, even that intended to promote positive change, is viewed with suspicion by the State.⁹³ Thus, just as poverty is criminalised, with serious implications as regards violence against the poor, so too is the struggle waged by human rights defenders and social movements to reduce poverty and discrimination. Be it by act or omission, the police, prison guards and even the justice system are implicated in violence against human rights defenders.

Reporting on her mission to Brazil in 2005, the UN Special Representative on the situation of human rights defenders explicitly expressed her concern at the criminalization of social action by human rights defenders in Brazil. She noted that they have been, "subject to unfair and malicious prosecution, repeated arrests and vilification as retaliatory action by State as well as by powerful and influential non-State entities. Leaders and supporters of social movements, in particular, have suffered and are placed at serious risk for activities in defence of human rights." She also expressed her concern that, "when human rights activists organize, they are accused of forming criminal gangs and when they mobilize for collective action to protest violation of rights they are accused of creating public disorder", and pointed in particular to "serious allegations of violence against defenders and abuse of powers by the State Military Police."⁹⁴ Recently, the Federal Government's

⁹² "Os defensores dos direitos humanos são constantemente ameaçados. Em alguns casos, amigos já foram mortos. Pra mim é claro que obstruir o trabalho de defensores dos direitos humanos ameaça a democracia em todo o mundo", Marcelo Freixo, Mandato Estadual, PSOL, Notícias,

<http://www.marcelofreixo.com.br/site/?page=noticias&id=864§ionid=12&catid=24>

⁹³ The Grupo Tortura Nunca Mais has been ordered to pay R\$ 47,000 (US\$ 25,000) by a judge in Rio de Janeiro for libel and defamation having published information on their website regarding a complaint brought against the police. The group claims that this same information is available in the public sphere, and in particular in the press, and views this action as a clear attempt on the part of the authorities to criminalise their own organisation.

⁹⁴ Jilani, Hina (2006), "Promotion and Protection of Human Rights. Human Rights Defenders. Report submitted by the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani. Addendum.

programme for human rights defenders has established a coordination group in Brasília and there are plans to extend a protection programme across the country. In order for this initiative to be effective, it must be assigned adequate resources and receive political support and approbation.

Human rights defenders who work on the issues of police and militia violence are among the most vulnerable to violence and intimidation. For example, it is reported that Jorge da Silva Neto, president of the residents' association in the *favela* of Kelson in Penha, in the north east of Rio de Janeiro State, was forced to flee his community in April 2007 following a series of death threats. He had previously submitted a complaint (*denúncia*) to the Secretary of Public Security, the Police complaints section (*Corregedoria da Polícia*) and the Public Prosecutor (*Promotoria Pública*) accusing seven military police officers of having invaded the community and assumed "dictatorial" powers. Three of these officers were briefly detained in early September 2007. Four days after their release da Silva Neto was shot to death.⁹⁵

Human Rights Watch reports that in May 2008, Joinville Frota, a trade unionist in the state of Amapá, received death threats in connection with strike activities.⁹⁶ In August of the same year, a number of members of the family of a deputy suspected of being a boss of the Justice League - a powerful local militia that has offered violent resistance to the authorities' attempts to combat its activities - were accused of the killing of seven residents of the *favela* of Barbante in the east of Rio de Janeiro. One of the dead, Ariovaldo da Silva Nunes, had refused to pay the "taxes" demanded by the militia. Furthermore, Marcus Neves, the police commissioner responsible for investigating the Justice League has received death threats. In July 2008, the police station where he works was the target of a bombing.

On 24 January 2009, Manoel Mattos, a human rights activist and the vice-president of the Worker's Party of Pernambuco was assassinated by two hooded men who broke into his house and shot him at point-blank range. Amnesty International reports that Mattos had received repeated death threats as a result of his work denouncing the activities of death squads in the Northeast. Indeed, as early as 2002, following a complaint lodged by Justiça Global and Dignitatis, the Interamerican Commission on Human Rights of the Organization of American States had called on Brazil to ensure the physical integrity of Mattos and four other persons, however this did not lead to effective protective measures being taken. Indeed, it is reported that shortly before he was killed, and despite ongoing threats, the federal police withdrew protection for Mattos because they felt it was no longer necessary. Mattos, who was a member of the local bar association's human rights commission had long campaigned against police violence and the spread of death squads in the region and had provided testimony and evidence to a federal parliamentary inquiry into death squads in the northeast.⁹⁷ Members of Mattos's family are also subject to threats from death squads: Dona Nair Ávila, the mother of Mattos, has already received threats following the death of her son, while Mattos's widow, Alcione Almeida, is also understood to be at risk.⁹⁸

Mission to Brazil. Preliminary Conclusions and Recommendations". E/CN.4/2006/95/Add.4, 14 March 2006, paras 15 & 16.

⁹⁵ Marcelo Freixo, Mandato Estadual, PSOL, "Notícias",

<http://www.marcelofreixo.com.br/site/?page=noticias&id=864§ionid=12&catid=24>

⁹⁶ Human Rights Watch, World Report 2009 - Brazil, 14 January 2009. Online. UNHCR Refworld, available at: <http://www.unhcr.org/refworld/docid/49705faa78.html>

⁹⁷ Amnesty International, 27 January 2009, "Human rights activist assassinated in Brazil",

<http://www.amnesty.org/en/news-and-updates/news/human-rights-activist-assassinated-brazil-20090127>

⁹⁸ There is a real concern that further deaths may ensue. The prosecutor Rosemary Souto Mayoe de Almeida and the deputies Luiz Couto and Fernando Ferro have also consistently denounced the activities of death squads in the states of Pernambuco and Paraíba over a number of years. One of the risks lies in the fact that these criminal groups exercise influence on the police, political parties and elements of the justice system in these states. This has led Justiça Global and Dignitatis to meet with the Minister of Justice and to call upon the Procurator General of the Republic to wholly shift investigations and trials associated with the death of Mattos to the federal level.

Marcelo Freixo, State legislator and president Human Rights Commission of Rio de Janeiro Legislature, who is currently under police protection, has received death threats for his work as president of the Rio de Janeiro Legislative Assembly's Parliamentary Commission of Inquiry into militias, which has the brief of investigating the involvement of politicians, councillors, police, firefighters and others in the illegal activity of militias. The report, submitted to the State Government in December 2008, contains the names of 225 individuals suspected of links with militia organisations.

Beyond Brazil's urban centres, violence against human rights defenders and social movements and the process of criminalisation is most clearly observable in the struggle to ensure access to land, address inequalities in land distribution and contest poorly planned agrarian reform. In its 2006 report on human rights violations in Brazil, OMCT indicated that the intensification of land conflict, the increase in landlessness and the growing number of evicted families were all factors contributing to the amplification of violence and killings of peasants and rural workers.⁹⁹ In the same year the Pastoral Land Commission recorded 39 killings and 917 arrests related to land conflict throughout the country.¹⁰⁰ Reportedly, such killings often imply the participation, knowledge, or acquiescence of state officials.¹⁰¹ Likewise, the organization Movement of People Affected by Dams reported that its leaders and members are repeatedly arrested and detained because of their action in defence of those affected by these developments.¹⁰²

Violence against land activists is further aggravated by the persistence of high levels of impunity, since the judiciary is frequently subject to external influences and the police are reluctant to investigate such cases. In many situations, State officials who try to apply the rule of law are themselves victims of abuses aimed at preventing the establishment of State authority in remote rural areas.¹⁰³

Over the years, and through a process of land occupation, Brazil's Landless Movement (Movimento dos Trabalhadores Rurais Sem Terra – MST) has allocated lands (*assentamentos*) to approximately 350,000 families.¹⁰⁴ This process has frequently been met with fierce and violent opposition from landowners, and OMCT has worked on a number of cases of violence against members of MST. On 21 August 2006, for example, Jaime Amorim, a member of the National Coordination of MST in Pernambuco, was victim of a preventive arrest by the police while returning from the burial of a worker who had been assassinated. Amorim was charged with criminal instigation, aggression against a public official and disobedience. His preventive detention was considered both arbitrary and abusive and after numerous attempts, *habeas corpus* was finally granted, only to be subsequently withdrawn. Furthermore, despite witnesses asserting his innocence, Amorim was eventually sentenced to prison in May 2008. National NGOs insist that this sentence results from a biased and unfair trial process and that the charges against him were aimed at criminalizing his activity as a human rights defender of the landless population.¹⁰⁵ On 30 March 2008, one of the leaders of MST, Eli Dallemole, was murdered by two gunmen who broke into his home and shot him in front of his wife and children. Dallemole was also part of the leadership of a sector of the *assentamentos* Liberação Campesina. According to MST, he was killed because he was a key witness in the inquiry on the demobilization of armed militias. Earlier in the same month, some 15

⁹⁹ OMCT, *Human Rights Violations in Brazil*, May 2006. See www.omct.org

¹⁰⁰ Human Rights Watch, *World Report 2008 - Brazil*, 31 January 2008

¹⁰¹ US Department of State, country reports on human rights, Brazil, 2007

¹⁰² Report of the Special Rapporteur on the situation of human rights defenders. Mission to Brazil A/HRC/4/37/Add.2

¹⁰³ Report of the Special Rapporteur on the situation of human rights defenders. Mission to Brazil A/HRC/4/37/Add.2,

¹⁰⁴ Report of the Special Rapporteur on adequate housing. Mission to Brazil, February 2004 E/CN.4/2005/48/Add.3

¹⁰⁵ See www.omct.org

gunmen displaced 35 families living in Liberacion Campesina, inflicting violence on men, women and children and setting fire to homes and belongings.¹⁰⁶

Similarly, disputes over land have seen intense and deadly violence directed against indigenous leaders and their communities claiming their ancestral and, indeed, legal rights to land as well as against Quilombola communities. Although the Government has the constitutional obligation to grant titles to Quilombolas, the demarcation of lands is consistently challenged and obstructed by conflicts and violence owing to economic interests. Defenders of the rights of Quilombolas live in constant fear of violence and death threats from powerful landowners who are unwilling to hand over lands to these communities.¹⁰⁷ The Special Rapporteur on contemporary forms of racism has indicated that the Government has not adequately responded to this violence and has expressed his concern that the judiciary is frequently reluctant to recognize quilombola lands due to racial prejudices.¹⁰⁸

Leaders of indigenous communities are likewise subject to death threats, violence and killings, both at the hand of State actors and *pistoleiros* working for private interests. The police threaten and kill leaders and members of indigenous communities and the judiciary largely continues to guarantee the impunity of the police, while criminalizing the actions of these leaders.¹⁰⁹ The Indigenous Missionary Commission (CIMI) indicates that at least 48 indigenous people were murdered in Brazil in 2006, and at least 78 in 2007. The most serious problems of violence are in the state of Mato Grosso do Sul, in which 48 of the killings in 2007 took place.¹¹⁰ Much of this violence is associated with the situation of the Kaiowá branch of the Guaraní people, who are confined to small reserves in the state.

The state of Pernambuco is home to some ten different indigeous peoples. Among them, the Trukà, with a population of some 3,000, live in a territory of roughly 6,000 hectares on an archipelago on São Francisco River.¹¹¹ The UN Special Rapporteur on contemporary forms of racism indicates that, in their efforts to secure their lands, Truká leaders are criminalized by the federal police. On 30 June 2005, Adenilson Dos Santos, the leader of the Truká and his 17 year old son were murdered in front of their family and community by four military police officers. At the time of the Special Rapporteur's mission in October 2005, the only investigation that had been initiated was into an alleged crime of resistance by the two victims. This murder is likely linked to the opposition of the Truká to the deviation of the river São Francisco, which they fear will seriously compromise their survival on their ancestral land.¹¹² One of the principal witnesses to the assassination of Dos Santos and his son was Morenzi Truká. Morenzi, a long-time campaigner for the land and water rights of the Trukà people and a candidate for local political office in the Town Council of the town of Cabrobó, was subsequently killed by a gunman in Cabrobó on 23 August 2008.¹¹³

¹⁰⁶ See: www.omct.org

¹⁰⁷ Report of the Special Rapporteur on the situation of human rights defenders. Mission to Brazil A/HRC/4/37/Add.2

¹⁰⁸ Report of the Special Rapporteur on contemporary forms of racism, Mission to Brazil, 28 February 2006, E/CN.4/2006/16/dd.3

¹⁰⁹ Report of the Special Rapporteur on contemporary forms of racism, Mission to Brazil, 28 February 2006, E/CN.4/2006/16/dd.3

¹¹⁰ See: www.cimi.org

¹¹¹ *Foreigners in Our Own Country: Indigenous Peoples in Brazil*. Amnesty International, March 2005.

¹¹² Report of the Special Rapporteur on contemporary forms of racism, Mission to Brazil, 28 February 2006, E/CN.4/2006/16/dd.3, para. 53.

¹¹³ The assassinations of Adenilson Dos Santos and Jorge dos Santos were reported to the UN on July 19, 2005, by way of Official Letter n.º 078/05 JG/RJ, and were included in the publication "On the Front Line: Human Rights Defenders in Brazil (2002-2005)" ("Na linha de Frente: Defensores de Direitos Humanos no Brasil (2002-2005)") from the organizations Global Justice (Justiça Global) and Land of Rights (Terra de Direitos); available at : www.global.org.br

As is the case with all manifestations of violence discussed in this report, the violence directed at indigenous communities has a direct and damaging impact on the enjoyment of economic, social and cultural rights. Appendix 2 of this report reproduces, in translation, a letter from the teachers and students of the Tupinambá people of Serra do Padeiro in Bahia, following a federal police operation on 23 October 2008 involving at least 100 police and a helicopter with the aim of arresting the Tupinambá's leader. During the operation police fired tear gas and injured more than ten community members. The letter clearly details the disruption caused to schooling in the community by the police action, as well as the psychological impact on the pupils and teachers alike.

9. Conclusions

Brazil's poorest and most marginalised communities are caught in a cycle of violence and poverty, a cycle that for many turns out to be deadly, and from which few are able to escape. Measures such as radically rethinking the country's policing policies, reforming the prison system and ensuring adequate mechanisms to address the situation of women and children victims of violence are clearly necessary, but an effective and sustainable response to this violence and poverty must inevitably also tackle the inequality and discrimination that are so prevalent in Brazilian society. It is, above all, the extreme disparities in access to opportunities and services that aliment Brazil's high levels of violence.

Discrimination in Brazil has many dimensions, including gender, skin colour, ethnicity, place of residence and socioeconomic status. One of its most damaging manifestations is in the indiscriminate identification of Brazil's poorest and most marginalised citizens, and in particular the residents of the country's *favelas*, as "criminals". This label also often extends to the individuals and movements engaged in promoting and protecting the human rights of these and other disadvantaged groups. The phenomenon of criminalization, fed in part by media representations and statements from certain officials and politicians, contributes to ongoing and arbitrary abuses of the poor at the hands of the police, punctuated at times by intense episodes of indiscriminate and lethal violence directed at entire communities. Equally, this criminalisation can serve as a justification for the abandonment of these communities to the tyranny of organised gangs or militias, whose ultimate aim in employing violence is to extend their economic influence. The association of socioeconomic disadvantage and criminality also has implications as regards access to justice for the poor. In particular this report has considered the obstacles faced by women, and poor women especially, in seeking protection from and redress for acts of violence. The Brazilian State, either by act or omission, is deeply implicated in all these situations.

Ironically, this prejudice against the poor, manifest in violence, only results in still greater socioeconomic exclusion and severely impedes attempts to reduce Brazil's high levels of socioeconomic disparity. It also has a measureable impact upon Brazil's economy, with the cost of violence in all its forms estimated to amount to 5 per cent of the country's gross domestic product.

Individuals and communities for whom poverty and violence are daily features of life indicate specific measures that they consider should be taken to reduce violence, and state violence in particular. Thus, for example, they suggest including a clear and effective human rights dimension in police training and encouraging the use of non-lethal arms in the apprehension of suspects, but significantly, their primary focus when discussing ways in which to reduce levels of violence is on ensuring respect for economic, social and cultural rights. They argue that their communities would be less dangerous places to live if the residents were not dogged by discrimination and instead had access to quality education and the real possibility of finding adequately paid work in the formal sector. In many cases, the necessary legislation is in place or the appropriate policy exists on paper to promote these developments – the challenge is one of ensuring that their implementation is effective and that the benefits of these measures are felt by all of Brazil's citizens.

10. Recommendations

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 have been developed to reflect the ideas and suggestions that were made by experts and victims of violence alike during the preparatory mission for this report.

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 “criminalization 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 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 to address the problem of criminalization 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;
- Assume a more proactive role in addressing social conflict and in legitimizing 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 socioeconomic 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 socioeconomic 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 socioeconomic 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 socioeconomic exclusion.
- 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 rights 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 woman victims of violence, rather than relying on the support provided by civil society organisations;
- 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;

- Echoing the recommendation of the UN Special Rapporteur on extrajudicial, summary and 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 in 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 implement of the current legislation protecting and promoting the rights of children and enforce all related safeguards;
- 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 regularization 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 quilombos 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;
- 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;
- 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;
- 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 steps necessary to implement fully and effectively Federal Law 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 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 socioeconomic 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 and 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, and 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 of 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 a 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;
- Establish an independent commission that carries 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.

Appendix 1

MNMMR – Justiça Global - OMCT

Preparatory Mission, Brazil, 10-17 February 2009 (Recife, Pernambuco - Rio de Janeiro, Rio de Janeiro)

Monday 9 February

16h00

OMCT staff member arrives in Recife

Tuesday 10 February

11h00

MNMMR staff (2) arrive in Recife

12h00-16h30, Recife

Preparatory meeting, MNMMR and OMCT.

Wednesday 11 February

9h00-18h00, Recife

Workshop at SOS Corpo – Instituto Feminista para a Democracia (16 civil society organisations represented. See list of participants below).

Interview with TV Universitario, Recife.

Thursday 12 February

9h30-11h00, Recife

Meeting with Wilma Melo, SEMPRI – Serviço Ecumênico de Militância nas Prisões.

11h30-13h00, Olinda

Interviews with 3 female victims of violence, IJA – Instituto Joanna de Angelis.

15h00-16h00, Recife

Meeting with GAJOP – Grupo de Assessoria Jurídica às Organizações Populares (6 GAJOP staff).

16h30-18h00, Olinda

Meeting with APOINME – Articulação do Povos Indígenas do Nordeste, Minas Gerais e Espírito Santo (3 APOINME staff).

Friday 13 February

10h30-12h30, Agua Preta, Palmares

Meeting with Associação de Mulheres di Agua Preta (6 association members, 2 female victims of violence).

16h00-17h00, Recife

Meeting with Ana Paula Maravalho, Observatório Negro.

17h30-19h30, Recife

Casa de Passagem, Santo Amaro – Centro Brasileiro da Criança e do Adolescente (4 staff, 2 male and 3 female victims of violence).

Saturday 14 February

10h00-12h00, Recife

Interviews with 2 male and 1 female victims of violence, SOS Corpo – Instituto Feminista para a Democracia.

Sunday 15 February

MNMMR staff return to Goiania, OMCT transfer to Rio de Janeiro.

Monday 16 February

10h00-15h30, Rio de Janeiro

Preparatory meeting, Justiça Global and OMCT

16h00-17h30, Rio de Janeiro

Interviews with 1 male and 2 female victims of violence, Oficina de Direitos Humanos, Lapa

19h30-21h30, Rio de Janeiro

Meeting with GTNM-RJ - Grupo Tortura Nunca Mais

Tuesday 17 February

10h30-11h30, Rio de Janeiro

Meeting with Joba Alves, MST – Movimento dos Trabalhadores Rurais Sem Terra

12h00-13h00, Rio de Janeiro

Meeting with Márcia Adriana Fernandes, CESeC - Centro de Estudos de Segurança e Cidadania/Associação pela Reforma Prisional

14h00-15h30, Rio de Janeiro

Meeting with Tomas Ramos, Projeto Legal

15h45-17h00, Rio de Janeiro

Meeting with Rede de Comunidades e Movimentos contra a Violência (1 male and 4 female victims of violence, plus staff)

OMCT staff member departs

**MNMMR/OMCT Meeting with Civil Society, Pernambuco,
11 February 2009, SOS Corpo- Instituto Feminista para a Democracia, Rua Real de Torre,
593 Madalena, Recife, PE**

Organisations present
Associação Carnaubense de Apoio à Família (ACAF)
Associação Espírita Lar Transitório de Christie
Articulação dos Povos Indígenas do Nordeste, Minas Gerais e Espírito Santo (APOINME)
Casa de Passagem, Santo Amaro
Centro de Cultura Luiz Freire (CCLF)
Cidadania Feminina
Comitê Latino-americano e do Caribe para a Defesa dos Direitos da Mulher (CLADEM Brasil)
Forúm de Mulheres de Pernambuco
Grupo de Assessoria Jurídica às Organizações Populares (GAJOP)
Instituto Joanna de Angelis (IJA)
Movimento de Luta Popular e Comunitário de Pernambuco (MLPC-PE)
Movimento Nacional de Meninos e Meninas de Rua, Pernambuco (MNMMR-PE)
Observatório de Favelas
Relatoria Nacional dos Direitos Humanos ao Trabalho
Serviço Ecumênico de Militância nas Prisões (SEMPRI)
SOS Corpo – Instituto Feminista Para a Democracia

Appendix 2

Media headlines relating to excessive use of force by the police in Rio de Janeiro, 2007

Headline	Newspaper source
Police operation in Rio leaves 5 dead	O Globo OnLine 06/03/2007
Shoot-out in the Complexo do Alemão stops traffic and leaves two dead	O Globo On Line 15/05/2007
Violent dawn leaves two dead in the Complexo do Alemão	O Globo On Line 23/06/2007
Automatic riffles missing: 500 military police to make statements	O Globo On Line 15/07/2007
On third day of police actions after Pan-American Games, 20 die in 24 hours according to Legal Medical Institute	O Globo On Line 01/08/2007
Young man shot at Grajaú-Jacarepaguá Road to be buried on Thursday	WWW.G1.COM.BR 01/08/2007
Police mobilizes 500 men, kills two people and arrest nine	Folha de S. Paulo, 11/08/2007
Mega-operation in Vigário Geral leaves five dead and seven wounded	O Globo OnLine14/08/2007
Police operation leaves four dead in Rio	Terra Notícias 15/08/2007
Inhabitants of Muquiço say that youths were executed	O Globo OnLine 24/08/2007
Mother accused military police of killing boy with developmental disability in Rio de Janeiro	Folha de S. Paulo, 28/08/2007
Seven die in police operations in RJ	O Tempo, 04/09/2007
Shoot-out in Vigário Geral hurts child and stops Red Line Highway and urban trains	O Globo OnLine04/09/2007
Seven dead during police action in a Rio favela	Folha de S. Paulo 4/09/2007
Suspect of involvement with drug traffic takes 52 military policemen to jail	O Globo, 17/09/2007
Police operation in the Complexo do Alemão leaves three wounded	O Tempo, 20/09/2007
Police action leaves three dead in the Complexo do Alemão	Agência Brasil 26/09/2007
Police operation leaves seven suspects dead in a Rio favela	Bol Notícias 03/10/07
Police operation ends with two dead and two arrested in Rio	Folha On Line 03/10/2007

Appendix 3

Full list of victims of the police mega-operation in Complexo do Alemão, Rio de Janeiro, 27 June, 2007

Name	Age	Cause of Death
Rafael Bernardino da Silva	20 years old	Gunshots to the right lung, heart and liver
Pablo Alves da Silva	15 years old	Gunshots to the head, veins, liver and spine
David de Souza Lima	14 years old	Gunshot to intestine
Paulo Eduardo dos Santos	18 years old	Gunshots to the head, lungs and veins
Geraldo Batista Ribeiro	41 years old	Gunshots to the head, heart, lungs, liver and intestines
Jairo César da Silva Caetano	28 years old	Gunshots intestines
Bruno Vianna	22 years old	Gunshots to the heart and right lung
Cleber Mendes	36 years old	Gunshot to the neck and traumatism to the neck
Bruno Rodrigues Alves	21 years old	Gunshots to the heart, right lung, liver, left kidney, stomach and intestines
Emerson Goulart	26 years old	Gunshots to the head, heart, and right lung
Uanderson Gandra	27 years old	Gunshots to the heart and right lung
Marcelo Luiz Madeira	27 years old	Gunshots to the lung and aorta
Claudomiro Santos Silva	29 years old	Gunshots to the lungs, trachea and aorta
Alexsandro José de Almeida	34 years old	Gunshots to the liver, lungs and heart
Bruno Paulo Gonçalves da Rocha	20 years old	Gunshots to the lungs, veins and liver
Luiz Eduardo Severo Madeira	28 years old	Gunshots to the lung, liver and heart
José da Silva Farias Júnior	18 years old	Gunshots to the lungs, liver and heart
Rafael Marques Serqueira	26 years old	Gunshots to the head, veins, trachea, esophagus and right lung
Maxwell Vieira da Silva	17 years old	Gunshots to the lungs, heart and left kidney

Appendix 4

Two cases of torture and murder in Brazil's penal system

José Carlos da Silva, temporary prisoner, tortured and murdered, Rio de Janeiro, southeast of Brazil

José Carlos da Silva, was detained at the Custody House Pedro Melo since April of 2006. Ever since his entrance in the house of custody, his family started to receive letters with **torture and ill-treatment complaints** perpetrated by penitentiary agents. As complained in one of the inmate's letter, sent to his mother Mrs. Maria do Carmo, dated of July 20th of 2006, José Carlos was beaten by public agents, including with the use of wooden instruments and suffered serious damages in his head.

On July 23rd of 2006, José Carlos was taken to the Penitentiary Hospital Fábio Soares Maciel, **where he died on July 24th**. His body was then taken to the Legal Medical Institute (IML) for the *causa mortis* results. However, José Carlos' family only became aware of his death on **August 14th of 2006**. Even worse, Maria do Carmo only received this information on August 14th after getting an authorization from the General Sub secretary Office of Penitentiary Administration of Rio de Janeiro, to visit her son in the Custody House. When arriving there, she was informed that he was hospitalized and died at the hospital.

On the very day, 14th of August, Maria do Carmo, went over to the Legal Medical Institute for the liberation of José Carlos' body and his burial. At the Legal Medical Institute she was informed by employees that didn't identify themselves, that her son had been buried seven days before that – on the 7th of August as an **indigent**. On the 16th of August Maria do Carmo went back to the Legal Medical Institute to obtain a document that proved Jose Carlos' burial. This time she was informed by LMI employees that did not identify themselves that the body of her son had not been buried and was there since July 24th of 2006. After this new information, Maria do Carmo ordered an authorization request for the burial of lavratura of the death certificate along with the 14th Register of Natural People Circumscription of the county of Rio de Janeiro¹.

On August 31st, 2006, Maria do Carmo's granddaughter Maria Aparecida Nascimento de Souza, went over to the LMI in search of proceeding with recognizing José Carlos' body, once up to that date, the Court Registry had not yet approved authorization for the burial. For her surprise and terror, **Jose Carlos' body was found out of a refrigerated area and in a state of decomposition** – it was only possible to be identified because Maria Aparecida recognized the tattoo in her uncle's disfigured body.

Only on September 6th of 2006, the judge of the 14th Register of Natural People Circumscription of the county of Rio de Janeiro dispatch the authorization for José Carlos' **burial**, that occurred on **September 7th**, in the cemetery São João Batista.

On September 27th of 2006, Global Justice received the official letter sent by the Special Department of Human Rights of the Presidency of the Republic, that originally came from the General Sub-Secretary of Penitentiary Administration of the State of Rio de Janeiro, that informed regarding the opening of the administrative procedure E-21/901698/06 to verify only if “there was lack of communication with the family by the SEAP administration”. According to this document,

José Carlos died due to a “**cerebral aneurysm**” and the burial was delayed due to the family’s lack of search”.⁴

What happened was that José Carlos’ death certificate indicates that his *causa mortis* was “cranial encephalic traumatism, subdural hematoma, cerebral edema – share cutting”. What remains is therefore, that there are strong indices that the accusations of torture and ill-treatment by the penitentiary agents made by José Carlos and his family be true, since in the correspondences there were reports of having suffered strokes on the head, including with the use of a wooden object. On November 13th, 2006, Mrs. Maria do Carmo and Global Justice solicited the Legal Medical Institute a copy of the cadaveric exam record. However, they had no response from the Institute. The crime gave origin to the establishment of the Record of Occurrence 5662/2006 in the 34th Police Department. However, **only on August 10th of 2007**, one year after the murder, was a Police Inquiry established to investigate the fact, being that to this day no person has been intimated to testify except for Mrs. Maria do Carmo that **spontaneously** showed up to do so on **July 30th of 2008**.

During all this time, Mrs Maria do Carmo and her family have fought for the finding and imprisonment of the ones responsible for José Carlos’ murder, but for that they face large obstacles with the Brazilian Justice’s selective morose; the difficulty access to public information access and discrimination against her son that despite being the culprit in the analyzed case, is many times seen as the villain by the public authorities responsible for the conduction of the investigations. Due to the fact that it is a crime whose victim is a temporary, poor and black prisoner, the case of José Carlos’ murder has been forgotten. But certainly his relatives never forget the cruelty that led to his death and they keep asking for the settling of the facts. Because of all this suffering Mrs. Maria do Carmo had health problems and developed an illness known as “labyrinthitis”.

Andreu Luis da Silva Carvalho, 17 years old, tortured and murdered in teen offender recovery center¹¹⁴

On the 1st of January of 2008, a young man, resident of the Cantagalo community, Andreu Luis da Silva de Carvalho, was brutally tortured and murdered by six DEGASE (General Department of Socio-educational Acitions) agents, inside the CTR (Center of Triage (Classification)) premises, an institution destined to confine violator teenagers.

Andreu was detained on the previous day, accused of participating in a robbery against a North-American coronel, at the margin of Ipanema beach. On the first day after reacting to an aggression from one of the agents, Andreu suffered a cruel session of tortures with tables, chairs, broomsticks, plastic bag over his face, coconuts and other instruments, leading him to his death.

In Brazil, Law n° 8069/1990 (Children and Adolescent Statute) ensures total protection for Brazilian kids and teenagers and it establishes that the right to their fundamental rights should be considered absolute priority by the State. However, until today, almost a year after the crime, nobody has been held accountable.

Ever since then, the mother of the victim, Deise Silva de Carvalho traced an insatiable struggle for Justice. But the cruelty of the facts, along with the evident impunity up to this moment, has affected her and her family’s emotional balance. For this reason, Deise and her sons David and Douglas see voluntary psychologists periodically. Besides that, Deise refuses to work because she believes she

¹¹⁴This case has been accompanied by many human rights Brazilian organizations that support the victims relatives: Center of Human Rights Defense of Petrópolis; Justiça Global (Global justice). Projeto Legal (Legal Project), State Deputy Eduardo Marcelo Freixo’s Mandate, Communities and Movements’ network against violence, Brazilian Center of Solidarity to the Peoples, Human Rights Defenses’ Institute (IDDH).

needs all of her time to search for those responsible for the murder of Andreu, so she can't wait even a minute with another activity. For now, the family has been receiving basic food baskets, offered by human rights entities.

Appendix 5

A letter from the Tupinambá teachers and students of Serra do Padeiro, Bahia

We, indigenous teachers and students of Serra do Padeiro express our indignation at the action of the Federal Police against our community. Last Tuesday afternoon, 21 October, we were surprised by a Federal Police helicopter flying over our classrooms, terrorizing our pupils. We had to suspend classes because of the panic among the students. Returning to classes on Thursday morning, 23 October, we let the pupils out at 10am for their recreation period, at which time we were surprised by a Federal Police offensive which saw us attacked by gas bombs and rubber bullets. Once more the helicopter was flying over our classrooms and homes.

And the saddest and most terrifying thing is that they [the police] invaded various parts of our school such as the administrative offices, the library, the computer room, the reading room and the store for the school snacks among others. They destroyed much material that was important for our work: our archives, our pupil records and important school documents, and over and above this, they committed the crime of drinking the children's milk. The milk from the Fome Zero (Zero Hunger) Campaign. But the worst thing of all was the damage that they caused to our cars that are used for transporting our children. They destroyed four Toyotas and one truck.

They also humiliated our students who attend middle school in the municipality of Buerarema while they were on their way back to the village, holding them for several hours inside the bus in the middle of the street. They were then taken to a public square in Buerarema where they were exposed to the rage of the city's population who oppose our people's struggle.

Classes were suspended due to all the destruction caused by the Federal Police, because we have no means to transport our pupils, and because of the psychological condition of the teachers, [who are unable] to teach classes, and of our pupils, who are still very scared.

We ask the State Secretary for Education, DIREC and all those who can help us to punish those who are guilty of this physical and cultural destruction of our community.

Yours,

*The indigenous Tupinambá teachers and students,
Serra do Padeiro, 24 October 2008*

This letter was accompanied by photographs of injuries consistent with those caused by rubber bullets and of damage to school property and vehicles.