



**Statement by Justiça Global, the World Organisation Against Torture
and the National Movement of Street Boys and Girls
to the Committee on Economic, Social & Cultural Rights:
Examination of State Party Report on Brazil
42nd Session, Geneva, 4 May 2009**

Based on the conviction that torture and cruel, inhuman and degrading treatment or punishment and other forms of violence are related in many ways to – and are often directly caused by – disrespect for economic, social and cultural rights, 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) came together to prepare an alternative report to support the Committee's consideration of the Brazilian State party report.

In our 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 criminalization of poverty*”, with a particular emphasis on Brazil's urban areas. The term “criminalization of poverty” refers to a clear and observable phenomenon that sees the poorest members of Brazilian society identified by state and quasi-state actors as criminal, or potentially criminal elements simply because of their socio-economic status and on that basis being targeted for extortion, arbitrary arrest and detention, physical violence or, indeed, summary execution.

This phenomenon can be observed in a number of interrelated contexts:

I - 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. Brazil's poorest and most marginalized 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.

II - Militia Control of poor Urban Areas

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. 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.

III - Economic, Social and Cultural Rights and the Prison System

The prison system is a fundamental element in perpetuating the link between poverty and violence in Brazil and in feeding the phenomenon of the criminalization of the poor. Riots, torture, massacres, and extortion are commonplace in Brazil's prison system, which is well-known for its brutality. Massive overcrowding is one of the key contributing factors. In addition there are serious problems associated with inadequate and unhygienic cells, insufficient and poor quality nutrition, limited or absent legal assistance, inadequate or inexistent health care and lack of educational or work activities.

IV- Violence against women and children

We also wish to emphasize that women and children in poor and marginalized communities are susceptible to experiencing violence in ways specific to their gender and age. Our report discusses how, in many cases, women 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. 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." The police and judicial system are equally unprepared when it comes to issues of violence against children. They often focus more on crimes *by* children than crimes *against* children.

V - Violence against human rights defenders and social movements

Even though in Brazil there is no formal impediment to the activity of human rights defenders, there are many mechanisms used to weaken or block their actions, put in place mainly by state governments and the judiciary. The abuses committed against human rights in Brazil take the form of attempts against life and personal integrity; restriction of access to public information; and defamation campaigns against and criminalization of defenders and social movements.

It is impossible to effectively promote the economic, social and cultural rights of Brazil's poorest citizens without addressing the violence that is a daily feature of their lives. Not enough has been done by the Brazilian State to consider fully and systematically the causal links between the failure to respect economic, social and cultural rights, and the resulting discrimination and violence. We encourage the Committee to urge the Government of Brazil to take into consideration these important causal links.

Justiça Global, tamara@global.org.br

National Movement of Street Boys and Girls, eulange@gmail.com

World Organisation Against Torture, mm@omct.org

Appendix

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” analyzed 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 defense 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 analyze 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 defense 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 centers, 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 incomegenerating capacity and financial independence;

Ensure that all Brazilian women victims of violence, including those from the poorest and most marginalized 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 marginalized 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 less use of punitive/ penal practices and more use of alternative sentences and open prison regimes (the construction of new prisons is only an emergency measure that does not address the root problems).

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, counseling 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 centers and to provide appropriate education and training opportunities of sufficient quality to support their reintegration into society and thus prevent these centers 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 marginalized;

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 favor 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 neighborhoods;

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 specialized 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.