

THE INTERNATIONAL COUNCIL ON HUMAN RIGHTS POLICY

Review Seminar

Crime: Managing Public Order in Countries in Transition

New York, 21-22 October 2002

CRIME AND HUMAN RIGHTS IN BRAZIL

Sandra Carvalho and Andressa Caldas

© 2002, International Council on Human Rights Policy
ICHRP commissioned this document as a Working Paper.
ICHRP has not edited it and is not responsible for its accuracy or for the views and opinions expressed.
ICHRP welcomes the re-use, re-publication and re-distribution of this paper, appropriately cited.

1. The problem of crime proliferation and concomitant support for harsh order laws limits the work of national Brazilian human rights organizations in Brazil. Fear of violence and a growing sense of insecurity within society lead individuals support harsh order laws. Within this context, human rights defence of criminal is limited because, “the disposition of groups to defend the rights of persons suspected of criminal violence wanes in the face of anti-crime (and anti-human rights) sentiment” (Cavallaro, 2001: 7). This obstacle is telling of two more general phenomena within Brazilian society. First, the problem speaks to the way the poor are criminalised within Brazilian society. According to Brazilian historian Cecilia Coimbra, throughout Brazilian history the poor have been portrayed as the ‘dangerous class’ through the media, public discourse and everyday language used to express growing fears of crime (2001). Human rights abuses against the poor are more acceptable when the poor is criminalised. Second, the problem of crime proliferation and concomitant support for harsh order laws is symptomatic of the authoritarian practices and institutions within Brazilian public security institutions which survived over twenty years of military rule. Authoritarian institutions facilitate human rights abuses through corruption, inefficiency and institutionalised authoritarian practices.
2. This paper is divided into five sections. The first part illustrates the extent to which high crime levels increase support for harsh order law in Brazilian society. The second part examines how the myth that portrays the poor as the dangerous class limits human rights defence. Third, the paper analyses the authoritarian nature of Brazilian public institutions, which facilitates human right abuses. The fourth section presents the context in which human rights defence began in Brazil. In addition, it analyses the relationship between government institutions and human rights groups. Finally, the paper provides recommendations for human rights NGOs.

SUPPORT FOR HARSH ORDER LAW

3. In August 2002, Wladimir Reale, President of the Rio de Janeiro Police Association (Associação dos Delegados do Rio de Janeiro) appeared on *Fantástico*, a popular Sunday night television

programme viewed by a large cross section of Brazilian society. Reale was interviewed alongside Ignacio Cano, a sociologist from the State University of Rio de Janeiro (Universidade Estadual do Rio de Janeiro). The two proposed opposing strategies for dealing with crime. According to Reale, “the police must exercise their legally conferred right to kill,” to which Cano retorted, “such a right does not exist” (<http://Redeglobo.globo.com>, 29, August, 2002).¹ Reale criticised a July 2002 peace vigil for slain journalist Tim Lopes who was killed by drug traffickers while researching a story on Funk parties and illegal drugs in the Rio de Janeiro shantytowns known as *favelas*. Reale said, “[Civil society’s] recent requests for peace and the peace vigils which are used to show public indignation with violence do not stir the hearts of criminals. To the contrary, public protests empower the criminals. The white flags [used at the vigils] are a sign of surrendering [to the criminals]; in fact, everyone at the vigil should be dressed in black.” In contrast, Cano stressed a more institutional solution to crime and violence. He stressed the need to develop greater intelligence and investigative capacity within the police force and he criticised the police for being corrupt. At the end of the interviews, *Fantástico* conducted a telephone poll asking viewers which of the two views on crime did they favour. The results were not surprising. Approximately seventy-five percent voted in favour of the police officer.

4. While the poll was not necessarily scientific, it is telling because the viewers of *Fantástico* represent a large cross section of Brazilian society, including the poor and the middle class. The Tim Lopes case is also interesting because it captures how society reacts to violence in the *favelas* of Rio de Janeiro. In August 2002, two months after Lopes was slain, two of the four members of the group accused of murdering Lopes have died in confrontations with the police (*Folha de S. Paulo*, 17 August 2002).² A third suspect allegedly committed suicide while in police custody (*ibid.*, August 16, 2002).³ Until the writing of this paper, no human rights group had investigated openly these deaths.
5. In October 1994 and again in November 1995, police officers in Rio de Janeiro entered the Nova Brasília *favela* (an area known to be dominated by drug traffickers) and summarily executed twenty-seven residents. According to the police, these residents were killed in the crossfire between police and drug traffickers (Cavallaro, 2001). No groups came forward to contest the official story. Two international human rights organisations, Human Rights Watch and the Centre for Justice and International Law (CEJIL) investigated the incident and decided to file a petition with the Inter-American Commission on Human Rights. Although these international NGOs usually filed joint petitions with local, Brazilian human rights groups, it was difficult even for these organisations to be associated with defending victims viewed as drug traffickers (*ibid.*).
6. The two examples above have several elements in common. First, in both incidents, the victims were poor, *favelados*. The public protests organised by civil society after Lopes’s death demonstrate that crime and violence are important to Brazilian society. The following section shows how the poor have been stigmatised as the criminal class in Brazil. In the process, the poor are essentialised and transformed into the ‘other.’ The effects that this has are detrimental to human rights because it makes it easier to support harsh penalties (which violate human rights) against this group, particularly with a context of rising crime.

CRIME DISCOURSE AND PERCEPTIONS OF CRIME

7. The myth of the poor as the ‘criminal’ class is well documented. According to Coimbra (2001) this myth can be traced to a nineteenth century Brazilian intellectual tradition that classified the poor as “the dangerous class” and described the places where the poor lived as the “territory of

¹ “Criminalidade Polêmica,” in *Rede Globo*, <http://redeglobo.globo.com/>, Internet search August 29, 2002.

² “Crescem mortos em confronto com polícia”.

³ “A morte do Capeta”.

the poor.” It is difficult to demystify this myth today because it is produced in public discourse and echoed in the media (Coimbra, 2001). The effects are detrimental for human rights because of the media’s ability to produce truths accepted by society. Coimbra writes, “truths are produced *en masse* in our daily lives...Today, the mass media occupies a privileged role in this production [of truths]. The media can produce new truths, ignore or even deny existing truths. It can adapt them, modify them and even turn them upside down (2001:45).” The passage is telling because it points to the fact that the role of the media is fundamental in reshaping public opinion’s notions on human rights.

8. The myth continues to be propagated because, according to Damacena and Arnaud, it serves a political purpose for people on the right and the left. The authors write that “the association between crime and poverty (i.e., that poverty causes crime) is not solely a sociological tendency. It is rooted in the right’s and the left’s common sense, whether it be to discriminate, criminalise, or sentence, [on one hand] or to justify or absolve people for the crimes they commit [on the other], or [simply] to shift the focus of the debate”(2001: 14).
9. This myth is aggravated under the context of rising crime. There is no doubt that crime has increased in Brazil since the early 1980s. Academic studies based on official government statistics indicate that, within the last twenty years, there has been a considerable increase in crime in Brazilian cities (Caldeira, 2000; Coelho, 1987; Paixão, 1983) followed by a low public tolerance for human rights. The sharpest increase came during 1983 and 1984 (a year after the first direct state elections since the 1964 coup) when property crime rates increased by 26.78 percent and 33.34 percent respectively and then stabilised at a new plateau (ibid.) In Rio de Janeiro, a small decrease in crime over the period 1979-82 was followed by a sharp increase after 1984 (Coelho, 1987). Other studies indicate that homicide deaths in Rio de Janeiro increased from 23 deaths per 100,000 residents in 1983 to 63.03 deaths per 100,000 inhabitants in 1990 (Zaluar, 1999).⁴
10. Although there is considerable debate over the causes of crime, in Brazil there is a commonly held perception that crime is directly linked to factors such as poverty, urbanisation and migration (Caldeira, 2000). Although academic studies disagree on this point, common sense dictates that the poor are more likely to fall to criminality out of frustration with the inequalities embedded in Brazilian society or out of material necessity. The causes of crime are complex, and there is a growing consensus that crime has become increasingly organised and professional (Coelho, 1988; Paixão, 1983; Mingardi, 1992). Caldeira writes, “we are seeing the increase of organised and armed crime, not a wave of offences committed by inexperienced individuals who turn to crime in a crisis”(2000: 135). While social exclusion may play a role in criminality, it is dangerous to explain all increases in crime with social exclusion and poverty because it helps to perpetuate the stereotype that the poor are part of a criminal class.
11. The myth of the poor as the criminal class is also buttressed by uncritical interpretations of empirical data, which shows that the highest crime levels are in poor neighbourhoods and the greatest number of prisoners are poor (Caldeira, 2000). Paixão (1983) used crime statistics collected by the police in Belo Horizonte, (disaggregated by race, literacy rates and occupation) to show that there is a strong link between social marginalisation and criminal behaviour. However, Paixão says, “accepting these official statistics as an accurate description of the magnitude and distributions of crime and as empirical evidence of the causal relationships between crime and poverty is problematic” (1983:41). According to Paixão, through their work, the Brazilian police develop a “logic-in-use” regarding criminality that reflects prejudices imbued in society. Rather than reflecting accurate levels of criminality, the statistics that the police ‘generate’ reflect their own prejudices and notions of criminality. The logic-in-use becomes institutionalised and is reinforced by the creation of new criminal categories that take on moral and legal meanings that justify stereotypes (1983: 42-43).

⁴ Cited in Cavallaro (2001: 4).

12. Nonetheless, using official statistics to study criminality is important because they often serve as a metric for the effectiveness of public law enforcement institutions. In the metropolitan region of São Paulo, official statistics indicated that between the early 1980s and 2000, property crime grew at an annual rate of 6.09 percent and crimes against persons increased by an average of 2.18 percent (Caldeira 2000: 117).⁵ When these statistics are disaggregated and compared between the Municipality of São Paulo (where the wealthier population lives) and other municipalities of the metropolitan region (where the majority of the population is poor), they paint a story of unequal access to public security and disproportionate probability of being a victim of crime which follow race and class line. For example, in the period between 1976-1996, crimes against person increased 0.39 percent per year in the Municipality of São Paulo, compared to an increase of 4.89 percent increase in other municipalities of the metropolitan region (Caldeira 2000: 118). During the same period, crimes against property were also higher in the other municipalities (7.66 percent per year) than in the Municipality of São Paulo (6.35 percent per year) (ibid.).
13. Finally, the rapid urbanisation and internal migration during the years of military rule has helped to propel the myth of the poor as a dangerous class and to stigmatise not only the poor, but most specifically, poor blacks and *mestiços*⁶ as criminals. In the process, the ‘other’ is, again, essentialised as a criminal, rendering human rights violations against these groups more palatable. Caldeira (2000) interviewed a woman from Moóca, a neighbourhood in São Paulo, which until the 1960s was traditionally Italian but now has a significant population of immigrants from the North and Northeast, many of whom are poor, black or *mestiço*. The interview (Caldeira 2000: 24) is illustrative of how fear and prejudice are linked to a low tolerance for human rights:

There can be a solution. It should come from the government. The government should give assistance to the poor. The neighbourhood became ugly with the *cortiços*. And the poor are like that, when they cannot buy the things they need, they rob. It is also the lack of culture. Moóca has had a lot of progress, has grown a lot, has had progress in houses, buildings, but it has an amount of *cortiços* that never seems to end. The government should close the exportation, stop this migration of people from the north. If you knew what my husband says when he goes by a favela! He is so disgusted. I am too. I’ve lost my health since I was robbed. I left the house on the same day, I sold everything there, I threw everything away... My husband, you don’t know what he says. When he sees a *cortiço*, a favela, he says that a bottle of kerosene and a match would solve everything within a minute.⁷

14. This crime narrative demonstrates how low support for human rights is more palatable when the other is essentialised. In the narrative, the poor take on essential qualities. The speaker asserts, “the poor are like that, when they cannot buy the things they need, they rob.” The speaker admits that her husband favours attenuating crime with kerosene and a match. She is careful to note that this is his idea, not her own, but many within Brazilian society hold no such reservations.

INSTITUTIONS AND HUMAN RIGHTS ABUSES

15. Aside from showing that the poor are largely victims of human rights abuse, the Tim Lopes case and the Naval *favela* case show that authoritarian institutions in government commit a significant number of abuses in Brazil. According to Caldeira, these statistics reveal a number of things about the police. One explanation for the lower rates of crimes in the Municipality of São Paulo

⁵ Crimes against persons include homicides, aggravated assaults, traffic accidents, and other crimes including infanticide, abortion and failure to render aid. Robbery followed by death (*latrocínio*) is categorized as a crime against property. Other crimes against property include larceny, aggravated larceny, robbery and fraud.

⁶ *Mestiços* are people of mixed background, i.e. European, African and Indigenous.

⁷ *Cortiço* are tenements.

compared to the other municipalities of the Metropolitan Region is linked with the way that the police carry out investigations. Caldeira, citing Mingardi (1992), writes:

Burglaries are well investigated when upper-class residences are robbed. Upper-class people may pay the police for having stolen property returned; they may also ask the police to 'be tough' (to torture) to get information. However, burglaries of poor people's homes tend to be ignored. Robberies and assault receive the same kind of treatment: the upper-class victims get attention, and the working class victims do not (1992:43)" (2000:111).⁸

16. These methods help buttress the myth of the poor as the dangerous class and reinforce the militarisation of the police force. During the dictatorship, the military prosecuted political opponents of the regime and classified them as enemies of the state. After the transition to civil rule, criminals became 'the new enemies' of the state. According to Coimbra, the media fuel the image of the poor as an enemy of the state. Coimbra writes: "In the same way that dangerous 'enemies of the state' were constructed in the 1960s and 1970s...today, especially via the mass media, 'new internal enemies of the state' are being produced: they are from the poorest sectors; they are those — who by virtue of being 'suspects' in the eyes of the 'the keepers of order' — should be avoided and eliminated" (Coimbra 2001:57-58).
17. Torture and surveillance are other vestiges of the military past, which are used in criminal investigation and monitored by human rights groups (Front Line and Global Justice Center 2002: 14). According to Mingardi and Lima, police torture has become *de facto* policy for carrying out police investigations. Margardi's study on the civil police in São Paulo reveals that the police torture because of corruption and in an attempt to receive money (1992:58).⁹ Mingardi also reveals that torture in the civil police is systematic, with rules and a logic where the poor is criminalised and seen as inferior to middle and upper class citizens (1992:55-57).¹⁰ According to Mingardi, the practice of torture within the civil police is based on the following logic: "(i) the proper way of torturing is the *pau-de-arara*, because other forms my leave marks...(ii) people of the upper classes and those without criminal records should not be tortured...(iii) a person with a criminal record and money is not tortured if payment for release is offered at the outset (1992:55-57)" (Caldeira 2000:110-111).
18. Lima argues that the civil police in Rio de Janeiro engage in the practice of torture because they seek the truth. Lima writes that "the necessity of finding out the truth through confession becomes responsible for the socially legitimated use of torture as an investigation technique" (1986:154).¹¹ This account is supported by prisoners' depositions in the city of Guajará-Mirim, in the state of Rondônia, who testified to being tortured systematically until confessing to crimes, which they did not commit. Although violence has always been a systematic practice against the poor, Caldeira affirms that the police abuse of the post transition period has had more to do with "administrative decision and political options rather than because of intractable patters inherited from the past" (Caldeira 2000:158). She cites examples of a state governor in São Paulo who has tried to reform authoritarian practices but met considerable resistance from the public.¹²
19. Another explanation for the lower crime levels in the municipality of São Paulo is the ability to afford private security (Caldeira 2000). According to Coelho (1987), a high probability of being caught committing a crime is a greater deterrent to committing a crime than a high sentence or a stiff punishment (1987). Thus, areas with more effective security institutions (regardless if they are private or public) are likely to have lower crime rates. Likewise, harsh penalties do not lower crime levels if the probability of being caught is low. Unequal access to security due to weak

⁸ Guaracy Mingardi was a civil police officer between 1985 and 1986 in the periphery of São Paulo.

⁹ Sited in Caldeira 2000:110.

¹⁰ Ibid.

¹¹ Ibid.

¹² Governor.

criminal justice institution and the high price of private security firms create a large demand for illegal security measures. Caldeira writes that

moreover, it is complicated for a condominium to hire private guards directly and fulfil all the requirements, particularly regarding the acquisition and registration of guns. In this context, it seems easier to use the illegal market and employ ex-policemen or policemen, who have their own guns as well as good relationships inside the police 'to clean up any major problem' (i.e., murders), as the person in charge of security in a large condominium put it (2000:205).

20. According to Caldeira, the clandestine security market is connected with death squads, *justiceiro*, and other vigilante groups (2000: 206).

THE RELATIONSHIP BETWEEN THE GOVERNMENT AND HUMAN RIGHTS GROUPS

21. Human rights defence in the post authoritarian periods began during the 1964-1985 military period. The first phase of human rights advocacy came shortly after the coup, which deposed civilian president João Goulart. Groups that supported the Goulart government (traditional labour groups from the Getúlio Vargas era, student groups, academics) organised a series of protests to demand a return of democratic rule (Reis: 2000). In 1968, over 100,000 protesters converged on downtown Rio de Janeiro in a protest known as the *Passeata dos Cem Mil*. The military government responded to this protest by declaring the infamous Institutional Act Number 5 (*Ato Institucional Número 5, AI-5*) which suspended all political parties and created a national security state. The years between 1968 and 1974 were marked by official state repression (torture, disappearances of political prisoners) characteristic of the Southern Cone dictatorship.
22. The year 1974 marked another milestone in the history of the dictatorship because it corresponded to the end of the most repressive years of the military government (Reis 2000: 77). The period between 1975 and 1979 marked a period of great social mobilisation in support of human rights including the Amnesty Movement, which called on the government to grant amnesty to the political prisoners. In addition to this campaign, new groups that represented various issues began to emerge. A new trade union structure emerged, alongside other groups such as women's groups, organisations representing gays, networks addressing issues of race and many others. These various groups flourished because of the tremendous institutional support that the Catholic Church lent to the movements (Mainwaring, 1989).
23. By 1979, a *détente* of sort was under way. On January 1 of that year, AI-5 was suspended and the Amnesty Law, which pardoned political prisoners and allowed exiles to return to the country, went into effect (Reis 2000: 77). By the early 1980s, the dictatorship was nearing its end. The states held gubernatorial elections in 1982, and the opposition party candidates from Rio de Janeiro (Leonel Brizola) and São Paulo (André Franco Montoro) ran on pro-human rights platforms (Cavallaro 2001: 4).¹³
24. During his campaign for governor, Montoro emphasised a return to the rule of law. Caldeira writes that "the opposition to the military was expressed by the slogan, *retorno ao estado de direito* (literally "return to the state of right or law," which we translate as "return to the rule of law"). This meant not only a return to constitutional rule and democratic elections, but also the control of all sorts of abuses of power" (2000: 165). Part of Montoro's platform included reforming the Internal Affairs Division of the Civil Police (*Corregedoria da Polícia Civil*) to control violence and corruption within the police force (ibid.). As a testament to Montoro's respect for human rights, he initially chose José Carlos Dias, a well-known lawyer for political prisoners during the

¹³ During the dictatorship, the military only allowed two parties: the military's party ARENA and the opposition party, and MDB, the Brazilian Democratic Movement, (*Movimento Democrático Brasileiro*).

dictatorship and ex-president of the Justice and Peace Commission of the Archdiocese of São Paulo, one of the most active groups defended human rights during the dictatorship (Caldeira 2000: 165). Given the context of rising crime, human rights defence was just as difficult after the dictatorship as it was before (ibid.: 166).

25. Perhaps the most controversial of Montoro's public security policies came in 1983, when he took Rota, a highly repressive special division of the military police force, off of the streets (Ibid.: 170).¹⁴ During his campaign, Montoro announced that he intended to abolish Rota, sparking a wave of protests. In 1982, a poll taken by *Folha de S. Paulo*, one of São Paulo's major daily newspapers, indicated that 85 percent were against abolishing Rota (Ibid.: 171). The Montoro administration decided against abolishing the Rota because of its tremendous public support. Instead, its mandate was changed and it no longer patrolled the periphery (Ibid.).
26. In Brazil, the relationship between human rights defenders and government institutions varies with each institution and depends on each level of government, i.e. federal, state and municipal. Over the past twenty years, human right groups have made significant progress at the federal level. Nevertheless, these groups still face many challenges.
27. The Human Rights Commissions for the National Congress is a clear victory for human rights defenders. All State Legislative Bodies now have human rights commissions. The commissions have been a fundamental institutional space for creating laws, which guarantee human rights. They have also served as a space to mobilise civil society and bring civil society together to discuss issues relevant to human rights. For the past seven year, the Human Rights Commission for the National Chamber of Deputies has hosted the Annual Conference for Human Rights. The conference is important because it sets a national agenda for human rights groups in Brazil.
28. The National Human Rights Programme (*Programa Nacional de Direitos Humanos*, PNDH) adopted on May 13, 1996, is a different example of the relationship between human rights groups and the federal government. The program was created through a participatory process between the government and human rights groups, which began in 1995. On the one hand, the PNDH was a victory for human rights groups, despite the fact that the original version failed to address economic, social and cultural rights. In 2002, these rights were incorporated into the PNDH after the government consulted with human rights groups through a national survey.
29. The PNDH was driven by two factors. First, in the early 1990s, the government became concerned with its image abroad. During this time, the federal government began acknowledging human rights abuses at the international level. The government took on a policy of greater international transparency with respect to human rights in order to improve its image abroad. The government's change in policy was motivated by the prospects of an increase in foreign investment and greater integration into the international economy. Despite these motives, this concern has created space within the government institutions for civil society to put forward policies, which affect human rights.
30. Second, the PNDH was driven by members of civil society who capitalised on the new space that the government opened for human rights defence. Paulo Sérgio Pinheiro, the current Secretary of State for Human Rights (Secretário de Estado dos Direitos Humanos), played a critical role in this regard. At the time, Pinheiro was a political science professor at the University of São Paulo and the director of the university's Nucleus for the Study of Violence. Pinheiro coordinated the meetings between civil society and government which led to the PNDH. In addition, by the time the PNDH was created, many individuals whom had been linked to the

¹⁴ Rota, (*Rondas Ostensivas Tobias de Aguiar*) was organized in 1969 during the military regime to fight terrorist attacks and bank robberies. Rota was responsible for most of the killings in São Paulo by the police force during this period (Caldeira 2000:170).

human rights movement of the transition period held positions in government. These individuals also played a critical role in creating enough political will to approve the programme.

31. Although the PNDH was a politically important gain for human rights defenders, there is still a gap between the federal government's official stance on human rights and its practice. The government's public security policies are prime examples of these gaps. These policies are generally characterised by a series of half-measures, implemented to assuage the public's ire after a human rights tragedy. For example, President Fernando Henrique Cardoso only supported a bill that proposed trying military police in civilian courts after the 1996 massacre by the military police at Eldorado dos Carajás, Pará State. The law passed in 1997 under a milder form (Caldeira 2000:153).
32. In 1997, the Congress passed the Law against Torture under similar circumstances. During the same year, the Federal Office of the Public Prosecutor made public a tape that captured a police shooting of a resident of the *Naval favela* in Diadema, a city in the greater São Paulo metropolitan area. The police had erected unauthorised roadblocks at the entrance to the *favela*. The videotape showed the police deliberately aiming at the resident in the back of the head as he was driving out of the *favela*. Despite the law, the Office of the Public Prosecutor has not shown the political will to sentence anyone for this crime. Sir Nigel Rodely, the United Nations Special Rapporteur on Torture, visited Brazil in 2000 and, later, published a critical report on the practice of torture in April 2001. In response, the Brazilian government launched a campaign against torture. The campaign's primary feature was a hotline created by the government for people to report the practice of torture. The measure does not solve the problem: space to report torture already exists, but the government lacks political will to charge and prosecute individuals for the crime. In August 2002, five years after the law was passed, the first high-ranking officer of the military police was charged and sentenced under the torture law (*Folha de S. Paulo*, August 17, 2002). In addition, to the officer who was charged and sentenced for torture, the Office of the Public Prosecutor charged fourteen workers of FEBEM (*ibid.*, August 16, 2002).¹⁵ Finally, in 2000, the government launched its National Public Security Plan (Plano Nacional de Segurança Pública) after an incident known as the "Bus 147 Kidnapping."¹⁶
33. Human rights groups have also made important advances at the state level. For example, in some states, human rights lobby groups pressured state legislatures to create Offices of the Ombudsman at police departments. However, many police ombudsmen do not enjoy enough autonomy to conduct thorough investigations into police abuse. The disconnect between federal guarantees and state realities is a problem that afflicts other relationships between the police and the judiciary. For example, according to the 1988 Brazilian Constitution (Article 129, paragraph VII) each Office of the Public Prosecutor at the state level has the power to oversee the police in Brazil. However, the Office of the Public Prosecutor at the state level is influenced by local political pressures and does not enjoy the same autonomy as the public prosecutor at the federal level. In contrast, the Federal Office of the Public Prosecutor has succeeded in investigating various public entities because it has been more insulated against corruption. According to Cano, the state and federal Office of the Public Ministry should investigate cases of police violence independently from the police (Justiça Global Interview, 16 August 2002). As a result of the challenges, rights groups continue to be concerned over police abuse in Brazil.
34. Another example where human rights victory secured at the federal level is not always guaranteed at the state level is the federal witness protection program. The program is not implemented uniformly across states because some states have the advantage of having state witness

¹⁵ The FEBEM, Foundation for the Well being of Minors, (Fundação Estadual Para o Bemestar do Menor) is a detention center for minors.

¹⁶ In 2000, a gunman held a passengers on a city bus hostage in the wealthy *Jardim Botânico* neighborhood of Rio de Janeiro.

protection programs. Finally, public funds affect the relationship between human rights groups and the government. When international sources of funding reduce the amount of funds that they contribute abroad, many human rights groups seek funding from national sources. Yet the government funds NGOs under politically motivated conditions. Politically motivated restrictions limit the scope of human rights work. Groups that receive funding from the government are more reluctant to criticise abusive government policies.

RECOMMENDATIONS

35. In the course of our research, we found out that the issue of rising crime and concomitant support for harsh order law requires rights groups to analyse the context of human rights defence on two levels. First, groups must understand the institutional obstacles to effective public security policies. According to Cano, during a period of authoritarian rule, rights groups are primarily concerned with forcing a democratic transition. In the post transition period, human rights work is more technical. Organisations must have a technical understanding of complex policy issues. They must hone their advocacy skills in order to lobby for legislative changes and legal mechanisms which are consistent with democratic institutions (interview, August 16, 2002). Second, according to Coimbra, human rights NGOs must understand which societal groups are most vulnerable to abuses because of socio-historical processes that target certain groups (interview, August 17, 2002). Despite the apparent contradictions between the demand for greater public security and maintaining the priorities of the human rights community, many groups from civil society have proposed concrete policies to combat crime without jeopardising fundamental human rights.
36. One important consensus is that harsh order laws are not effective for fighting violent crime. According to the interviews and bibliographical research that we consulted, violent crime is diminished through **holistic public security policies which go beyond isolated initiatives and measure taken in the wake of human rights tragedy in order to quell the ire of civil society**. In addition, sound public security police must extend beyond police reform and include reforms in the judiciary, the penal system and even in the legislature.
37. **Public security policies should also include strategies for deal with fear and insecurities associated with crime**. According to Damacena and Arnaud, "... it is important to create specific policies which help to reduce fear and insecurity in society; reducing fear requires special qualities. Without a doubt, controlling crime is just one of many policies which will help to reduce fear in society. In the struggle [to overcome fear of crime] there is a gap between the level of ideas and the material, social realities. [To close this gap] involves facilitating communication between different groups within society to fight against stigmatisation of the other. It is also important to have a diverse set of policies, and open common spaces and a reduction in closed exclusive spaces, etc. Numerous institutions play a critical role in forging such a society, including the media, creating social and cultural policies, municipal governments, and the diverse NGOs and social movements which form civil society (2001:25)." It is important to analyse this problem through the institutions, cultural, educational and socio-economic realms.
38. **Another common themes which emerged through the interviews and research was the need to demystify the belief that violence and crime are exclusively connected to social exclusion and poverty**. To accomplish this goal, human rights NGOs must **educate Brazilian society about human rights**. They must seek to mobilise society in innovative ways, which move beyond conventional means such as filing petitions. The new channels of communication must transform common sense and dispel the myths propagated in the media and in public discourse. According to Rezende Figueira, "...conventional means of communication are not sufficient in order to convince a public which is accustomed to sophisticated means of

communication used today. It is important to mobilize society through other means such as images, music and theatre” (Interview, August 15, 2002).

39. Rights groups must also design programs for state authorities. According to Cano, “Citizens don’t know what human rights are, they don’t understand the logic behind human rights because they doesn’t understand that human rights can be used to protect themselves. The police also don’t understand that human rights are guarantees to protect them against corruption, and the abuse that corruption engenders, especially in the military police (...) it is important to demonstrate to the public that visceral responses to crime and insecurity have not benefited Brazilian society in any way”(Interview, August 16, 2002).
40. **It is fundamental for human rights groups to establish close ties with the press.** Creating close ties with the press will help to educate the public on human rights abuses. It will also popularise the debate surrounding the relationship between human rights and public security. Human rights groups can use the press as a platform to inform the public of their legal guarantees and the importance of respecting those rights guaranteed by the constitution. These rights include the right to an attorney, due process, and presumption of innocence. Cano says, “When a completely innocent person is tortured and imprisoned, the story should be highlighted in the press so that people can see and identify themselves [with the victim]. Empathising and identifying with others plays a strong role in public opinion. An example of this was the film clips of torture in the Naval favela. In general, when people here that there is torture, and summary executions in the favelas, people associate this with criminals. However, there is a different public reaction when television images portray people who were taken into custody without any reason and were battered and even shot in the back. People can identify with this” (Interview, August 16, 2002).
41. **Civil society groups must also begin to file petitions and write reports which are more professional and which are based on consistent fact.** Professionalism must be applied to research techniques and investigations. NGOs should work with reliable sources and statistics to give greater credibility to their reports and petitions. It is important to strengthen and improve research techniques. This occurs when there is greater investment in the quality of human rights organisations and through capacity building programs. “It is important to have scientific understanding of public security, human rights and violence. Many arguments are put forward by completely personal arguments which are not grounded in [credible] information. It is important for the debate to be structured around credible information and not just by opinions and concerns (...) in order to have a serious debate, one which is professional and based on facts and one which is less visceral.”
42. **Government agencies and state officials must make statistics on public security more transparent and accessible to the public.** This will help to structure the debate with credible facts. The Brazilian government’s current practice is not to make statistics and other information collected by the government available to the public (Interview with Cano, August 16, 2002).
43. **NGOs also recommend creating better mechanisms, which protect those who speak out against violations without fearing reprisals.**
44. **According to Cano, in order to create a better relationship with the police, rights organisations must highlight good police practices.** A community police brigade is an example of a good police practice. It is difficult to evaluate police brigades in Brazil because they are relatively new. However, they seek to change the relationship between the police and the state. The police opened this space in order to change public perceptions. One way to overcome this distrust is for human rights groups to emphasise the relationship that they have created with “good police” (Interview, 16 August 2002).

45. **It is important to create partnership with government groups without losing autonomy.**
46. **Sound public security policies must engage police in order to create more effective methods of conducting investigations.** The police must build their investigative capacities, instead of creating a more repressive structure (e.g. buying more weapons and military training). Experience shows that greater intelligence reduces the need to use force and violence. However, police intelligence and investigations should be used within legally permissible parameters. State and federal agencies must guarantee that investigations should be carried out impartially, and should be conducted in all cases of human rights violations. Likewise, judicial proceedings against human rights violations should be conducted impartially.

BIBLIOGRAPHY

Caldeira, Teresa P.R, *City of Walls: Crime, Segregation and Citizenship in São Paulo*, (Bekerley: University of California Press, 2000).

Cavallaro, James: “Human Rights and the Proliferation of Crime: The Perception of Human Rights and Its Effects on Rights Defence in Brazil, presented at Focus Meeting on Crime, Public Order and Human Rights, (Geneva, 2001).

Centro de Justiça Global & Front Line. Relatório: *Na Linha de Frente: Defensores de Direitos Humanos no Brasil, 1997-2001* (São Paulo, 2002)

Coelho, Edmundo Campos. *A Criminalidade Urbana Violenta*, in *Série Estudos* No. 60 (Rio de Janeiro: Instituto Universitário de Pesquisas do Rio de Janeiro, 1987).

Coimbra, Cecília, *Operação Rio. O mito das classes perigosas*, (Rio de Janeiro:Oficina do Autor, 2001).

Damacena, Andréa e Arnaud, Ed. “Violência no Brasil: representações de um mosaico”., In: *Caderno CERIS, ANO I N° 1, p.25*, (Rio de Janeiro, Centro de Estatísticas Religiosas e Investigações Sociais, 2001).

Lima, Roberto Kant de. “Legal Theory and Judicial Practice: Paradoxes of Police Work in the Rio de Janeiro City.” (Ph.D.diss., Harvard University, 1986)

Mingardi, Guaracy. *Tiras, Gansos e Trutas: Cotidiano e Reforma na Polícia Civil*. (São Paulo: Scritta, 1992).

Paixão, Antônio Luiz Paixão. “Crimes e Criminosos em Belo Horizonte, 1932-1978”, in Pinheiro, Paulo Sérgio, *Crime, Violência e Poder*, (São Paulo: Editora Brasiliense, 1983).

Pinheiro, Paulo Sérgio. “O Passado Não Está Morto: Nem Passado é Ainda”, in Dimenstein, Gilberto, *Democracia em Pedacos. Direitos Humanos no Brasil*, (São Paulo: Companhia das Letras, 1996).

Velho, Gilberto. “Violência, Reciprocidade e Desigualdade: Uma Perspectiva Antropológica”, In: Velho, Gilberto & Alvito, M, *Cidadania e Violência* , (Rio de Janeiro: Editora da URFJ, 1996).

Zaluar, Alba. “Crime, Medo e Polícia”, In: *Sociedade e Estado*, Vol. 10 n°, Jul-Dez, pp.391-416, (Brasília: , 1995)

Silva, Luis Antonio Machado da, “Criminalidade Violenta: Por Uma Nova Perspectiva de Análise”, in: *Revista de Sociologia e Política: Cidadania e Violência, n° 13*, (Curitiba: Universidade Federal do Paraná, 1999).

Rede Globo, “Criminalidade Polêmica”, <http://redeglobo.globo.com>, Aug 29, 2002.

Interview With Oscar Vilhena Vieira, São Paulo, July 23, 2002

Interview with Renato Simões, São Paulo, Aug 5, 2002.

Interview with Ricardo Rezen de, Rio de Janeiro, Aug 15, 2002

Interview with Ignácio Cano, Rio de Janeiro, Aug 15, 2002.

Interview with Cecília Coimbra, Rio de Janeiro, Aug 17, 2002

Interview with Amélia Telles, São Paulo, Aug 23, 2002

Interview with Fermino Fechio, São Paulo, Aug 26, 2002

Telephone Interview With Roberto Monte, Rio de Janeiro, Aug 27, 2002

Centro de Justiça Global: www.global.org.br

ILANUD: www.ilanud.org.br

INESC: www.inesc.org.br

DHNET – Rede de Direitos e Cultura: www.dhnet.org.br

ABONG – Associação Brasileira de ONGs: www.abong.org.br

Conjuntura Criminal: www.conjunturacriminal.org.br

POLIS – Instituto de Estudos, Formação e Assessoria em Políticas Sociais: www.polis.org.br

IBASE – Instituto Brasileiro de Análises Sociais e Econômicas: www.Ibase.org.Br

CPT – Comissão Pastoral da Terra: www.cptnac.org.br

CIMI – Conselho Indigenista Missionário: www.cimi.org.br

MST – Movimento dos Trabalhadores Rurais Sem Terra: www.mst.org.br

Ouvidoria de Polícia de São Paulo: www.ouvidoria-policia.sp.gov.br

FASE – Fundação de Análises Sociais e Econômicas: www.fase.org.br

ISER – Instituto de Estudos da Religião: www.iser.org.br