

THE KILLINGS IN CANDELÁRIA AND VIGÁRIO GERAL: The Urgent Need To Police the Brazilian Police

Human Rights Watch has been studying police and prison violence in Brazil since 1987. During the past six years, with the cooperation of the Prison Project and the Women's Rights Project, Americas Watch (the division of Human Rights Watch that covers the Western Hemisphere) has released five reports and five newsletters on human rights abuses in Brazil, in addition to Human Rights Watch's own Annual World Reports on Human Rights. Four of these studies have focussed on police murders, torture and other abuses of criminal suspects by the police, whether in the streets, in custody or in detention, and the impunity of police and other officials from punishment for such conduct.

In its very first report on Brazil,¹ Americas Watch noted that the police (both civilian and military) in the states of Rio de Janeiro and São Paulo routinely killed large numbers of suspected criminals and other "undesirables" and that they were, in practice, immune from prosecution for such crimes. Americas Watch called on Brazilian authorities to make clear that such conduct was not authorized by law and to discipline and, in appropriate cases, prosecute policemen who, either while in uniform or while employed by private parties, committed such abuses. In its most recent report on Brazil,² Americas Watch found that, five years after its initial report had placed Brazilian authorities on notice of this situation, military and civilian police in the state of São Paulo had killed 1470 people during 1992.³ In the first eight months of 1993, the São Paulo military police killed 257 civilians, a dramatic drop from the previous year. This decrease suggests that improvements are possible, even if the number of killings remains very high by international standards.

Americas Watch and Human Rights Watch's Prison Project have also condemned both the São Paulo and Rio de Janeiro prison authorities for grossly overcrowded detention facilities and for two particularly brutal episodes in which the police murdered inmates. In February 1989, military and civil police at the 42nd police station in São Paulo crowded fifty-one prisoners into a sweltering sealed room (measuring less than fifty square feet) for several hours, resulting in the deaths by asphyxiation of eighteen inmates.⁴ On October 2, 1992, in the most serious prison

¹ Americas Watch, *Police Abuse in Brazil: Summary Executions & Torture in São Paulo and Rio de Janeiro*, (New York: Human Rights Watch, December 1987).

² Americas Watch, "Urban Police Violence in Brazil: Torture and Police Killings in São Paulo and Rio de Janeiro after Five Years," *News From Americas Watch*, vol. 5, no. 5 (New York: Human Rights Watch, May 1993).

³ By way of comparison, in 1992 the Los Angeles Police department killed 69 people. Killings by the São Paulo military police in 1992 are thought to be more than all killings by police in the United States during the same period.

⁴ For more details see, Americas Watch, *Prison Conditions in Brazil*, (New York: Human Rights Watch, April

massacre in Brazilian history, the São Paulo military police opened fire on inmates who were involved in a riot at the Casa de Detenção

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1989), pp ii-iii.

prison, killing at least 111 people.⁵ Many of those killed offered no resistance to the police -- some were shot in the back while lying naked in their cells. In both of these cases the Brazilian authorities failed, for lengthy periods, to punish the responsible officials, leading Americas Watch and others to file complaints against it before the Inter-American Human Rights Commission.

In the case at the 42nd Precinct a police detective, Celso José da Cruz, was recently found guilty and sentenced, on September 29, 1993, to 516 years in prison, though by law he will only serve 30 years.⁶ Two other civil policemen were due to go to trial in late 1993 and early 1994. However, the military policemen have not yet been indicted. In the Casa de Detenção case, in February 1993 the military justice prosecutors recommended the indictment of 120 military policemen, including the commanders of the operation. The court hearings are now beginning, but are proceeding with the usual sluggishness. As of October, the military court had only heard 25 of the accused. The only punishment to date is that the officers in charge on the day of the massacre have lost their command positions.

In the early morning hours of July 23, 1993, off-duty military policemen in Rio shot and killed, in cold blood, eight teenagers who (like many hundreds of other poverty-stricken children in that most beautiful of American cities) were sleeping in the street that night, in this case adjacent to Rio's Candelária church. The killing was, unfortunately, only the most dramatic episode in the on-going war between street children and self-appointed death squads, which are frequently made up of off-duty military police and are commonly referred to in Brazil as "extermination groups" ("grupos de extermínio"). Last year, according to the Rio state government's own statistics, 424 children under the age of eighteen were victims of homicide in Rio de Janeiro. In the first six months of 1993, 298 children were killed. In the country as a whole, according to statistics from the federal *Procurador Geral* (Attorney General), 5,644 children between the ages of five and seventeen were victims of violent deaths in the period between 1988 and 1991.⁷

On the evening of August 29, 1993, shortly after the Candelária killings, Rio de Janeiro was shaken by another massacre committed by off-duty police: at least twenty military policemen donned hoods and, using machine guns and hand grenades, attacked residents of a shanty-town neighborhood known as Vigário Geral. Twenty-one people were killed by the police attack, which appears to have randomly targeted residents of Vigário Geral. The day before the attack, four military policemen had been murdered in the same neighborhood by drug traffickers.⁸ However, many of the victims were employed and none had prior criminal records. Eight of the victims were members of a family unlucky enough to live across the street from a bar attacked

⁵ See, Americas Watch, "Prison Massacre in São Paulo," *News From Americas Watch*, vol. 4, no. 10, (New York: Human Rights Watch, October 1992).

⁶ "Júri condena policial a 516 anos," *Folha de S. Paulo*, September 30, 1993.

⁷ An up-coming Americas Watch report, based on a month of research in Brazil, will analyze in more depth the killing of minors.

⁸ Subsequent news reports alleged that these policemen were killed when an attempt to extort money from the drug dealers went awry.

by the police. Investigators believe that they were shot because one of the policemen involved in the operation took off his hood in front of the family.⁹

After both killings, the federal and Rio de Janeiro state governments expressed their shock and promised full investigations. In response to the Candelária killings, the Rio state government transferred the commander of the 5th battalion of the military police, whose soldiers were identified by several survivors of the shooting as among the gunmen. Similarly, after indications that policemen from the 9th battalion were responsible for the shootings at Vigário Geral, Rio governor Leonel Brizola dismissed the unit's commander, stating: "The battalion is the reflection of its commander, and the 9th battalion, without a doubt, was allowing behavior which should never be tolerated under the regulations."¹⁰ Both Vice Governor Nilo Batista, who is the head of the civil police, and Col. Carlos Magno Nazareth Cerqueira, the commander of the military police, reportedly offered to resign. Governor Brizola decided to maintain both men in their positions.

Governor Brizola and Vice Governor Batista were very clear in stating their beliefs that the evidence showed that policemen were responsible for the Vigário Geral killing. Governor Brizola stated that the massacre "presented characteristics of an inadmissible operation of revenge"¹¹ and indicated that the Rio government would make radical changes in the military police. By mid-September, the government had proposed decreasing the size of the military police battalions and creating special committees within each battalion to receive complaints from civilians. The governor also proposed the retirement of a large numbers of battalion commanders.

Subsequent investigations into the Candelária case resulted in the arrest of three military policemen and one civilian, who were indicted on August 5. The trial of these suspects was already underway by October. In the Vigário Geral case, twenty-eight military policemen, who were allegedly members of a death squad called the *Cavalos Corredores* (Galloping Horses), were arrested. On September 14, the military police announced that they would dismiss many of these suspects from the force, because investigators had found un-registered private weapons in their homes.¹² The investigation into the killing by both the civil and military police was concluded on September 22, and recommended the indictment of a total of thirty-three people, among them twenty-eight military policemen, three civil policemen and two civilian employees of the civil police. All of these suspects had arrest warrants issued, and twenty-three were already under arrest.

Vice Governor Batista stated that one of the key witnesses, a police informer, gave a tape-recorded statement which was "the most frightening deposition about internal crime in the police,"¹³ and that the Rio authorities would launch a new investigation into the formation of

⁹ "Oito vidas por um descuido," *Veja*, September 29, 1993.

¹⁰ See articles in *O Globo*, *Jornal do Brasil* and *Folha de S. Paulo*, September 1, 1993.

¹¹ "Nilo tem certeza de que matadores são PMs," *Jornal do Brasil*, August 31, 1993.

¹² "PM anúncia expulsão de 15 suspeitos," *Folha de S. Paulo*, September 15, 1993.

¹³ "Polícia aponta 33 responsáveis por chacina," *Folha de S. Paulo*, September 23, 1993.

various death squads in the police forces. Subsequent investigations into these allegations have begun to reveal organized crime networks within the police force allegedly involving top figures in the civil police, as well as military policemen. Batista also stated that the killing may have been only one of several crimes which were part of an organized attempt to destabilize the state government and provoke federal intervention.¹⁴

At the federal level, the Federal Police announced that they would form a special unit to investigate death squads, and would focus on the participation of military and civil police in these groups.¹⁵ The federal Minister of Justice announced that representatives from his office would accompany the two investigations. In addition, the federal Human Rights Commission (*Conselho de Defesa dos Direitos da Pessoa Humana*) decided to create a special Investigative Commission to look into causes of the Vigário Geral massacre and determine who was responsible. On September 9, at the suggestion of the Conselho de Defesa dos Direitos da Pessoa Humana, President Itamar Franco sent to the federal Congress a legislative proposal which would make crimes committed by death squads non-bailable and exempt from the statute of limitations. Despite calls for federal intervention in the Rio state military police, the federal authorities decided that this step was not necessary.

In September 1993, shortly after the Vigário Geral killing, Americas Watch Vice-Chair Stephen L. Kass, together with representatives from the Center for the Study of Violence of the University of São Paulo (Núcleo de Estudos da Violência, NEV), met with Maurício Corrêa, the Minister of Justice, and other senior officials in Brasília, and with Vice Governor Batista and Col. Cerqueira in Rio de Janeiro to express the deepening concern of Americas Watch and the NEV over Brazil's uncurbed police violence and to review the steps that the federal Government and the Rio state government were taking to remedy this situation. Kass also met with human rights and bar association representatives in Brasília, Rio de Janeiro and São Paulo to review current developments and learn their views.

The Federal Ministry of Justice, the Procuradoria Geral da República and senior Rio state officials have attempted to deal with the two most recent massacres with speed and vigor, promoting investigations through the Federal Council for Human Rights and by the Federal Police, publishing reports about the incidents and acting at the state level as well. Indeed, in Americas Watch's six-years of studying human rights in Brazil, there have never been as many military policemen under investigation or indicted in serious crimes as at the present moment. Nevertheless, the fact that the Candelária and Vigário Geral killings could be carried out at all testifies to the pervasive sense of impunity with Rio's military police and the urgent need to initiate permanent reforms within the police corps. While punishment of those responsible for the latest killings is indispensable, it will not be sufficient unless it is accompanied by meaningful institutional change as well.

Based on its continuing study of Brazilian human rights practices, Americas Watch believes it essential for Brazilian authorities, at both the state and federal levels, to carry out the fundamental reforms summarized below, many of which have also been proposed by the

¹⁴ "Relatório desvenda extermínio," *Jornal do Brasil*, September 23, 1993.

¹⁵ "PF investigará extermínio," *O Estado de S. Paulo*, August 5, 1993; and "Polícia Federal vai investigar 'exterminadores,'" *Folha de S. Paulo*, August 5, 1993.

Conselho de Defesa dos Direitos da Pessoa Humana or by Brazilian human rights organizations and jurists. These reforms would demonstrate, to both the people of Brazil and to the world, that Brazil has at last brought its errant police forces under control and made them subject to the rule of law.

Recommendations

A. Actions Required at the State Level:

The states of Rio de Janeiro and São Paulo, and thereafter all Brazilian states, should institute (or in some cases expand) the following programs to reform their current police practices:

1. Joint Federal-State Investigations: All credible cases of police abuse, including but not limited to the killings at the Candelária church and Vigário Geral, should be investigated promptly and vigorously by joint federal-state detective teams that are assigned exclusively to such investigations. In the case of the Candelária and Vigário Geral investigations (as in all future investigations), state authorities must continue to cooperate fully with representatives of the federal Procurador Geral and share with them all relevant evidence as it is developed. As a first step in this direction, state forensic laboratories should be directed to share their studies with federal investigators.
2. Prompt and Vigorous Prosecution: In both the Candelária and Vigário Geral cases, as well as any similar instances of police abuse in the future, state authorities must prosecute all responsible parties promptly and vigorously. If convicted, the guilty officers should be punished to the fullest extent of the law and incarcerated in state facilities along with others convicted of comparable crimes.
3. Witness Protection: In both the Candelária and Vigário Geral cases and in any future cases involving police abuse, state authorities must offer, and provide where requested, effective protection for witnesses, who may otherwise be intimidated against providing relevant evidence. Some programs to protect witnesses are now being developed; they should be rapidly instituted. In addition, a consistent and workable program must be created to deal with the problem of witness protection. This is particularly important in the case of the Candelária killings, where most of the witnesses are children.
4. Administrative Discipline: In addition to formal criminal prosecution in the Candelária, Vigário Geral and other cases, state police authorities should carry out vigorous internal reviews to identify and discipline those police officers who failed to take appropriate action to prevent or uncover criminal conduct by others within the force or to assist with either criminal or administrative investigations. Police officers who fail to cooperate in such investigations should be denied promotions or dismissed from the force. In addition, policemen who are accused of homicide should be placed on unarmed duty pending the investigation. One current problem is that cases drag on for years, while dangerous policemen continue their work. Putting abusive policemen on desk duty would create a strong incentive to both cut down on shootings and expedite cases.
5. End Death Squads: An unknown, but significant, number of death squads continue to operate within both the Rio de Janeiro and São Paulo police forces. For example, in the first seventeen months of its operation a special hot-line set up in the Rio de Janeiro governor's office

for anonymous denunciations of death squad activity resulted in the arrest of eighty-nine members of extermination groups, of whom thirty-seven were associated with the police. In addition, a series of reports in the newspaper *O Dia* revealed the participation of military police in several grupos de extermínio in the Baixada Fluminense area: four groups, the reports claimed, were made up almost exclusively of military policemen.¹⁶ The newspaper stated that of 147 military policemen accused of involvement with grupos de extermínio, forty-seven were still on active duty.

It is long past time for superior officers within the military and civil police to end their tolerance of this practice, which makes a mockery of any pretense of law or justice by either the civilian or military police. If state officials are unable to end the death squads within their police forces, they should either ask the federal government to assume control of those forces (as has happened in the state of Alagoas) or reorganize them completely and create a civilian police corps that has been trained not to commit murder, either while on duty or on their own.

6. Expand Training to Older Officers: The Rio de Janeiro and São Paulo police have instituted improved and extended training programs for officers. These are commendable but insufficient, since they appear to do little to change established patterns of conduct among older officers, who are the role models for new entrants into the force. Periodic re-training should be required for all officers and should not be limited to written materials, but should include meetings with recognized senior police officials, from Brazil and elsewhere, who can make clear that professional police work does not include murder or torture.

7. Improved Compensation and Anti-Corruption Efforts: A significant portion of police violence in Brazil is undoubtedly related to poor compensation levels and the ability of drug traffickers to corrupt police officers who cannot support their families on existing salaries. Concurrently with the efforts, described above, salaries should be improved and tolerance of ties to drug traffickers ended.

8. Human Rights Council: The state of São Paulo has recently established, after considerable controversy, a new Human Rights council to monitor its notoriously brutal police forces. This council, which will have formal investigatory and reporting powers, includes three government representatives and eight representatives from the Brazilian Bar Association (*Ordem dos Advogados do Brasil, OAB*) and other non-governmental organizations, thus assuring (at least in theory) independent civilian control of its operations and findings. Although still in its formative stages, such a council appears a desirable model for use in Rio de Janeiro and other states as well, and we recommend that such states move promptly to create similar bodies.

We also recommend that the São Paulo council (and its Rio counterpart, when it is established) consider creating "Civilian Complaint Panels" to receive and evaluate complaints from civilians against individual police officers. The panel should pass on its findings in such cases to the full council, as well as to the police and prosecutor for appropriate disciplinary or other action. We also urge the council to issue periodic public reports on the status of police practices within the state and the outcome of all criminal and administrative proceedings against police officers accused of human rights abuses.

¹⁶ "PMs reforçam grupos de exterminadores na Baixada" and "Denúncias apontam 68 grupos," *O Dia*, July 4, 1993.

Americas Watch understands that the commander of the Rio military police, Col. Cerqueira, has proposed creating civilian relations committees within each of the military police battalions. We are encouraged that this decision has been made and hope that it will be speedily and fully implemented.

B. Actions Required to be Taken by the Federal Government:

In additions to these actions at the state level, a number of reforms are essential in order to permit the federal government to discharge its responsibilities to assure that Brazil complies with its obligations under international law to protect fundamental human rights.

1. Extend Jurisdiction of Civil Courts: A major contributing factor to police impunity, particularly for the military police, is the limited jurisdiction of civil courts to try the military police. Although in theory the military police are subject to civilian courts when they act in private capacities, crimes committed by on-duty military policemen are tried in a separate military justice system.¹⁷ Not surprisingly, such courts rarely convict military police of even blatant crimes. According to a prosecutor in the Rio de Janeiro military justice system, of the fifty-three trials of military policemen that occurred in 1992, 70 percent resulted in acquittals.¹⁸ However, all of the policemen accused of serious offenses were expelled from the force. In other states, even expulsion does not occur unless police are convicted.

A bill drafted by federal Deputy Hélio Bicudo, currently pending in the Senate, would extend the competence of civil courts to cases involving murder by the military police. This is an essential first step, but the new law should be amended as promptly as possible to extend the competence of civil courts to all cases alleging denial of fundamental human rights by any member of the military police force.¹⁹ We are encouraged to see that the federal Minister of Justice, Maurício Corrêa, has supported such an expansion of the legislation.

2. Federal Prosecution for Human Rights Abuses: In addition to extending the jurisdiction of the civil courts, the legislature should create a new federal crime punishing human rights abuses by state (or federal) police officers. Such a crime, covering murder, torture, beatings, and a pattern of denying other fundamental rights, would permit federal prosecutors to investigate and try state police even when local officials fail to do so. It would not, however, preempt or supersede local prosecutorial responsibility, and would avoid the need for federal officials to seek to intervene in state or local proceedings. Such a crime would, in essence, be the equivalent of the U.S. statute under which the Los Angeles policemen who beat Rodney King were tried and convicted after their acquittal by a state jury.²⁰

¹⁷ Article 125, Constituição da República Federativa do Brasil.

¹⁸ "PMs não pagam por seus crimes," *O Globo*, August 29, 1993.

¹⁹ Crimes committed against civilians by the military police were judged in civilian courts until 1977, when a decree by the military government suspended the competence of the civilian courts over the military police.

²⁰ On April 17, 1993, Sergeant Stacey Koon and Officer Laurence Powell were convicted of violations of 18 U.S. Code §242, which penalizes willful actions by individual officials "under color of any law" that deprive people of their civil rights. Despite this conviction, Americas Watch has noted that the U.S. Federal government has generally adopted a passive attitude to police brutality in the United States. [See, Human Rights Watch, "Police

3. Federal Investigatory Authority: Existing statutory and constitutional authority for the Procurador Geral to investigate state crimes is by no means clear. The Procurador Geral has proposed clarifying this power to enable his office to investigate a pattern of state abuses without relying on the voluntary cooperation of state officials. This is a useful step, though one that would be less necessary if the federal criminal legislation proposed above were enacted.

4. Federal Human Rights Reporting: The Minister of Justice has recently asked the Conselho de Defesa dos Direitos da Pessoa Humana to report on the progress of state investigations into the killings at Candelária, Vigário Geral and at the Casa de Detenção prison, and reports on these cases have now been issued, representing a commendable first step in the direction of thorough and independent reporting. This commission should be expanded and should be expected, in the future, to issue quarterly reports on all matters referred to it. The commission should also be able to receive complaints directly from the public, conduct public hearings on state and federal police practices and make recommendations for reform where its investigations warrant. It should also compile and make public: current data on all police killings, including information on the arrests and prosecutions of police officers and on the steps being taken by each state to eliminate police death squads; information about police acquiescence in private violence of the type prevalent throughout much of rural Brazil; and details on the progress, if any, that each state is making in eliminating the unacceptable prison conditions and practices that have been described in our Americas Watch/Prison Project reports.

C. Actions at the International Level

If Brazil's federal and state governments continue to prove unable to remedy current police abuses (either because they do not implement reforms similar to those summarized above or because, despite such reforms, police killings continue as in the past), other forms of international action appear appropriate.

Foremost among these would be referral of the entire subject of police abuses (including death squad activities) to the Inter-American Commission of Human Rights, which is currently reviewing Brazil's failure to punish those responsible for the 1989 prison killing. The government of Brazil should ask the commission to conduct an on-site study of the subject in accordance with its customary procedures and, if its findings so warrant, to initiate a proceeding before the Inter-American Court on Human Rights. Although Brazil has not consented to the compulsory jurisdiction of the Court, the Brazilian government can accept that jurisdiction on an *ad hoc* basis, at the invitation of the Commission. In this instance, Americas Watch suggests that the government of Brazil should pledge to accept such an invitation if the Commission finds that referral of the matter to the Inter-American Court is warranted.

The massacres at the Candelária church and at Vigário Geral present the Brazilian authorities, at both the national and state levels, with dramatic signals that immediate steps must be taken to address the problem of police violence. While Americas Watch is encouraged to see that both cases are being investigated and prosecuted and that serious reforms are being discussed, the coming months will reveal whether Brazil is able to address its problem of police violence, not only through individual prosecutions but also through meaningful institutional

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Brutality in the United States: A Policy Statement on the Need for Federal Oversight," (New York: Human Rights Watch, July 1991).]

reform. If not, the Candelária and Vigário Geral will remain as two more tragic examples of the social disaster of police violence that will continue to plague Brazil.

Americas Watch was established in 1981 to monitor and promote the observance of internationally recognized human rights standards in the Americas. Americas Watch is one of the five regional divisions of Human Rights Watch. The Chair of Americas Watch is Peter D. Bell; Vice Chairs, Stephen L. Kass and Marina Pinto Kaufman; Executive Director, Juan E. Méndez; Associate Directors, Cynthia Arnson and Anne Manuel.

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