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@An agenda for human rights in Brazil

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Vigário Geral massacre 1 September 1993, Rio de Janeiro. Residents gather round the coffins of the 21 slain residents. @ *Mario Leite/ O Dia*

Three of the 'Mothers of Acari' hold up a pressreport about the Magé "Disappearances". People and police look on at the bodies of two of the three youths who were lynched, and burnt alive, in Olaria, Rio de Janeiro on 4 July 1993. @ *Mário Leite/ O Dia*

Street children gather round the body of one of the eight killed in the Candelária massacre July 1993 @ *Oswaldo Prado/O Dia*

13 year-old Jean Alves da Cunha, a local leader of the National Street Boys and Girls Movement was killed in November 1992 in Vitoria, Espirito Santo a few weeks after denouncing police extortion of street children.

Casa de Detenção massacre, 2 October 1992 São Paulo. Survivors were made to move the bodies of the 111 victims of the prison massacre. Some of the body-carriers were then also shot dead. @ *Folha da Tarde*

This photograph was taken when a Bar Association Commission walked in on Antônio Ferreira Braga being tortured in a Robbery and Theft Police Station in Fortaleza, Ceará in April 1993. Antônio Ferreira Braga was handcuffed and wrapped in a blanket, beaten and semi-asphyxiated with the rubber inner-tube of a car-tyre placed over his head. In the foreground can be seen a 'palmatoria' - wooden bat or club - and

electric wires. © *Evilázio Bezerra/O Povo*

Casa de Detenção massacre, 2 October 1992 São Paulo. Prisoners lean out of cell bars holding up a pamphlet on 'Human Rights'. © *André Penner/ Abril Imagens*.

After the Vigário Geral massacre, 1 September 1993, Rio de Janeiro, children hold up a banner: "We want Peace". © *Estefan Radovicz/ O Dia*

Street children from Candelária square, wrapped in blankets to disguise their identity, attend the funeral of their friends in fear. They are protected by a cordon of human rights workers. © *Samuel Martins/ O Dia*

INTRODUCTION

Brazil is at a turning point in the struggle for human rights. Amnesty International believes that the forthcoming elections offer the opportunity for vigorous new initiatives to hold the security forces and the "death squads" to account, and to end the cycle of violence which has brought despair to countless Brazilians.

In the 10 years since Brazil returned to civilian rule, serious human rights violations have persisted. Incidents such as the massacre of 111 prisoners in São Paulo in 1992 and the killing of seven children in the centre of Rio de Janeiro in 1993 have shocked public opinion. The continued killings of street children have damaged Brazil's reputation within the international community. Apologists for the perpetrators of human rights crimes claim that the country's enormous socio-economic problems and increasing social violence mean that human rights abuse is inevitable. Amnesty International is convinced that, on the contrary, the authorities could make significant improvements to the human rights situation in Brazil if they had the political will to do so.

Elections for a new president, state governors and members of parliament at federal and state level are scheduled for October and November 1994. Amnesty International is calling on all candidates at every level to express their unequivocal commitment to upholding human rights and to spell out the measures they would take if elected. If the state and federal authorities that take office in 1995 give a high enough priority to the struggle for human rights, the killings and the torture can be stopped.

In June 1990 Amnesty International issued a report¹ about human rights violations in Brazil's major cities. It highlighted the extrajudicial execution of children and adults by the police and "death squads", the use of torture by the police and the inhuman treatment of prisoners. It concluded that the police had responded to increasing social violence by taking the law into their own hands. Four years later, human rights violations associated with urban violence remain a problem that must be confronted.

The Brazilian authorities have recently acknowledged that the main cause of recurring human rights violations involving children and innocent members of poor communities is the impunity with which the perpetrators operate. Despite the authorities' numerous initiatives in the field of human rights and new legislation, human rights abuses in Brazil's towns and cities continue unchecked.

Brazil is a large, rich and fast-changing country. The Brazilian economy is among the world's 10 largest but Brazil has one of the most unequal patterns of wealth distribution in the world. The richest 10 per cent own 47.8 per cent of wealth while the poor 10 per cent own only 0.8%.² The social conditions of the Brazilian people have deteriorated sharply, particularly in the last decade. In 1992, Brazil's Gross Domestic Product per Capita was below that of 1982.

Over the last 30 years, Brazil has experienced rapid, and often traumatic, urbanization. Between 1964 and 1994, the urban population increased from 34.9 million to 114.9 million. There has been a corresponding decline in the rural population as thousands of poor peasants migrated from the impoverished north-east to the sprawling industrial centres of the south-east. However, for many internal migrants,

the cities failed to provide the jobs or the means to cover their most basic needs. The mounting socio-economic difficulties have been compounded by political problems. Since the country's return to civilian rule in 1985, one president has died before taking office and another was impeached for corruption. Allegations of corruption among members of parliament have eroded public confidence in the political system. The state has failed to provide adequate health care and education. This failure to satisfy basic needs is most apparent among the poorest sectors of the population who inhabit the sprawling shanty towns and decaying inner cities.

Crime rates are high. Hunger, unemployment, lack of medical care and insecurity affect millions of urban poor. Many people are sceptical about the ability of the state to protect them and support tougher action by the police. Many have turned against human rights organizations, regarding their work as little more than the protection of criminals. Popular anxiety about the rising crime is fuelled by popular radio programmes, which proclaim, for example, that "a good criminal is a dead criminal". Corruption, poverty, inadequate public services, fear of crime and unemployment have combined with the traumatic social and economic changes to undermine public confidence in the ability of the state to maintain order. In many cities forces have emerged which have exploited the social disintegration and imposed their own forms of social regulation. Only determined and vigorous action by the authorities will restore the rule of law.

1. Extrajudicial Executions

In August 1993, 21 people were killed when over 30 hooded and heavily armed men attacked the shanty town of Vigário Geral, Rio de Janeiro. For two hours they shot indiscriminately at local residents. Among the dead were seven men playing cards in a bar and eight members of a family, including a 15-year-old girl. The attack was reportedly committed in revenge for the killing, two days earlier, of four military police officers who were allegedly murdered by drug traffickers based in the shanty town. The killing was apparently entirely a police operation. Following an investigation, charges have been brought against twenty eight military policemen, 3 civil police and two members of the state Public Security Department.

The scale and barbarity of the massacre stunned Brazilian public opinion and became international news. These killings, however, were only remarkable because of the number of victims and the number of assailants involved. Similar incidents, although on a smaller scale, go unnoticed and almost unreported in the poor quarters of Brazil's main cities. Death at the hands of police or members of death squads is part of everyday life for Brazil's urban poor.

The following incident, which passed unnoticed by the national and international press, illustrates just how prevalent violence has become in the suburbs of Rio de Janeiro. On 26 January 1994 the bodies of five young men were found on wasteland in the Venda Velha quarter of São João de Meriti, a poor suburb of Rio de Janeiro. The five youths had been shot several times at point blank range. Marcelo da Cruz Valadares, Fábio da Cruz Valadares, Fábio Augusto Ramos Coelho, Vanderlei Augusto Pereira Evangelista and João Ricardo Costa da Conceição were killed in a manner bearing all the hall-marks of death squads killings.

They were themselves typical of the victims of death squad violence. Most victims of urban violence are poor, young and male. The victims of the Venda Velha killings were aged between 16 and 24. All five were black. They all lived in the Baixada Fluminense, a working class district of Rio de Janeiro, which has about 2,500,000 inhabitants and a reputation for violence. One of them had money (around US\$20) in his pocket and a gold chain round his neck, suggesting that robbery was not the motive for the crime.

Local people reportedly said that the youths had been brought to the wasteland where their bodies were found in the early hours of the morning of 26 January in a van, followed by two cars. The five youths were then forced to lie down and shot several

times in the head and the back. These were the second such killings that week in the same municipality.

The scale of killings

There are no comprehensive or reliable figures on which to base an estimate for the number of extrajudicial executions in Brazil. In both rural and urban areas, many such killings go unreported to the authorities or unregistered by them. However, some figures are available that give an indication of the scale of human suffering: suffering that cannot be allowed to continue.

In 1991 alone, the São Paulo police killed 1,140 civilians in the course of their duty. This meant that one quarter of all the people who died in violent circumstances in that year were the victims of shootings by the police. By contrast, in a city of a comparable size, in the same year the New York police fatally shot 27 civilians. Further evidence of the excessive use of force by the Brazilian police is provided by another comparison: in New York, more than twice as many people were wounded by the police as were killed; in São Paulo more than three times the number of people were killed than were wounded.

In Rio de Janeiro, in the 10 months between the Vigário Geral massacre in September 1993 and June 1994, 1,200 people were reported to have been killed by death squads. Nine out of ten of these cases remain unresolved.

According to the journal *O Dia*, 68 death squads were in operation in 1993 in the Baixada Fluminense region of Rio de Janeiro alone. Other sources put the figures even higher. Examining just one area of Rio de Janeiro, the Baixada Fluminense, *O Dia* reported that over 7,500 people had been killed between January 1991 and May 1994. Most had been murdered, in killings which bore the hallmarks of death-squad executions. There is some evidence that the rate of killings in the Baixada Fluminense has been declining since then, partly as a result of a crack down, but that there has been a corresponding rise in abductions and "disappearances", indicating a possible change of strategy by the death squads. There has also been a corresponding rise in the number of such killings in the capital, Rio de Janeiro city.

The killings of children and adolescents are discussed below. The most recent national figures from the Federal Attorney General's Office show that police recorded 5,644 violent deaths of children between 1988 and 1991. Many of these children and youngsters were the victims of extrajudicial executions, perpetrated by the police or by death squads operating with police complicity. In other words, the Brazilian authorities have to bear responsibility for the killing of so many people whose lives had barely begun.

Killings by Police

Over the last decade, there has been increasing concern at the frequent use of lethal force by certain sectors of both the civil and military police in several states of Brazil. Police involved in lethal shootings enjoy almost total immunity from prosecution, especially if their victims are the urban poor, the so-called "marginals" or petty criminals. This climate of police impunity encourages lawlessness.

One case among the many that illustrate the police's contempt for the law is that of Reinaldo Silva, a Paraguayan citizen. He was wanted by the police on suspicion of killing an off-duty police officer, on 19 March, 1993 in Corumbá, Mato Grosso do Sul. During an exchange of fire, he was wounded in the cheek. The following day he gave himself up to the police under the protection of the Paraguayan consul in Corumbá, who received assurances from the authorities that Reinaldo Silva would be safeguarded.

Reinaldo Silva was taken under police guard to the local hospital, to be treated for his wound. While he was undergoing treatment, the hospital was reportedly invaded by over 40 uniformed military police officers, who stormed the hospital's emergency treatment room, overcame the resistance of the hospital staff and the police guard

and shot Reinaldo Silva dead. The police officers then reportedly celebrated in the street by firing their weapons into the air.

After the killing, the general command of the Mato Grosso do Sul military police ordered the removal of the commander of the Corumbá military police force from his post and the detention of the police officers involved in the assassination. However, after a demonstration in support of the military police officers by local people, they were set free pending a military police inquiry. To Amnesty International's knowledge the military police officers accused of involvement in the killing continue to serve on active duty.

The killings of Wilson Brito dos Santos and Ademir Barbosa Correia in 1992 highlight not only the network of complicity that allows killers in the police to operate with impunity, but also the terrible danger that this entails for witnesses.

Wilson Brito dos Santos, a student, and his friend Ademir Barbosa Correia, also a student and street vendor, were walking home in a suburb of Salvador, Bahia, on the evening of 27 February 1992, when they were intercepted by a group of men dressed in civilian clothes. Without asking for any identification, the men handcuffed the two youths and threw them into the boot of a vehicle. Wilson reportedly identified one of the men as a neighbour who was a military policeman, and begged him for help, but to no avail. In the early hours of the morning, the two young men were taken to a deserted area on the outskirts of the city. They were then hauled out of the boot of the car and ordered to sit cross-legged with their heads between their legs. One of the men ordered Wilson to raise his head and shot him in the eye, thorax and leg. Ademir tried to run away and was shot dead. Wilson feigned death and was thrown into the undergrowth by the men before they left. The following morning Wilson managed to catch the attention of a passer-by. He was taken to hospital where he recovered, although he lost the sight of one eye.

Wilson identified five military policemen as the killers. The five were charged with the abduction and murder of Ademir. In May 1992, the Commander of the Bahia state military police announced that the five men had been expelled from the police and would be sent to jail to await trial. Of the five military police charged, four were condemned to between 20 and 25 years in prison for the crime of "qualified homicide", and one was acquitted.

Ademir's mother, told of the imprisonment of her son's killers, said: "Men's justice is slow but sure". Tragically, her confidence in Brazilian justice proved misplaced. Before the end of the year Wilson had also lost his life at the hands of the military police.

On 19 November 1992 Wilson Brito was shot 12 times when police entered his shack, in the Pituaçu shanty town, in Salvador. Wilson died instantly but his wife, Sandra, who was shot three times survived. Two days before his death, Wilson had apparently gone to complain that military police officers had threatened him with death. The military police officer acquitted of his friend's murder was allegedly among his killers. After spending some months in jail, the four convicted military police officers were released and returned to active service in the Bahia military police, pending an appeal against their sentences.

The case of the "disappeared" Magé eleven and the Mothers of Acari is perhaps the most damning and exemplary of all. On 26 July 1990 eleven people, five of whom were minors, were abducted by a group of armed men from a farm in Magé, Rio de Janeiro state. Four years later, at the time of writing, their bodies had not been found, and on these grounds no prosecutions have proceeded.

The intelligence section of the Military Police had, however, identified the abductors as military police officers from the 9th Military Police Battalion in Rocha Miranda, Rio de Janeiro state, and as detectives from the Cargo Theft Department, from the 39 Police Station of Pavuna, Rio de Janeiro. The police report indicated that military police officers had been extorting some of the victims before

the abduction.

Mothers of the Magé “disappeared” who actively campaigned for a complete investigation, have repeatedly received death threats and been harassed by members of the military police that patrol the Acari shanty town, *favela*, where they live. This culminated in the killing in downtown Rio de Janeiro of one of the mothers, Edméia da Silva Euzébio on 15 January 1993, together with a friend. She had testified a few days previously in court about police involvement in the case.

Among those charged with the September 1993 Vigário Geral massacre are a number of those named as suspects in the original military police intelligence report on the 1990 Magé “disappearances”.

In what is perhaps the most wide-ranging study on the use of lethal force by the São Paulo military police, journalist Caco Barcellos drew attention to the high level of lethal shootings by certain military police battalions, notably Battalion 1 - the *Rondas Ostensivas Tobias de Aguiar*, ROTA.³ Many of the cases detailed in this study bear all the hallmarks of extrajudicial execution. The report highlighted the failure of the authorities to bring those responsible for these killings to justice. It also described the manner in which evidence is systematically destroyed and the way in which the police routinely justify such killings by claiming they shot in self-defence and by labelling the victims as delinquents or criminals. They use the term “resistance followed by death”. The report contains examples of cases where police officers accused of unlawful killings have been appointed, while they were awaiting trial, to investigate officers accused of similar crimes. It also named a number of officers who had committed between 34 and 45 lethal shootings. In his recent book, Roberval Conte Lopes, a São Paulo state deputy and former military police captain, admits having killed 42 people during his police career.

Labelling the urban poor as “delinquents” and criminals reinforces the view of some more middle class sectors of the population concerned about crime that the police are justified in their use of lethal force. The urban poor do indeed form by far the largest proportion of the victims of police killings. However, they are by no means the only victims.

According to police reports, two police officers on patrol in the early hours of the morning of 30 January 1993 spotted a car containing two young men parked on the hard shoulder of the Rio de Janeiro-Santos highway in São Paulo state. When the car pulled away, the patrol car followed it and ordered the driver to stop. The police claim that when the car stopped, one of the occupants, Luis Felipe Sydow, shot at the police patrol and that they returned fire, fatally wounding Luis Felipe Sydow in the head. The police allege that a gun and cannabis were found in the youths' car. However this version of events is strongly contested by the other occupant of the car, Marcos Robert Texeira. According to his account, they stopped their car when ordered to do so by the police, and Luis Felipe Sydow was shot dead without warning at point-blank range by one of the police officers. Marcos Robert Texeira also denies that they had either guns or drugs. Preliminary forensic tests are reported to show that Luis Felipe Sydow had not fired a gun. An inquiry into the case is currently underway.

In a similar incident in 1991, Christian Marques Tupiná was shot dead by police on 31 May in Cuiabá, Mato Grosso. Initially police claimed that Christian opened fire on a police patrol and that they returned fire in self-defence. Christian later died in hospital from gunshot wounds. Police also alleged that they found a gun and drugs in Christian's possession and classified the killing as “resistance followed by death”. A subsequent police inquiry established that the police version of events was false and that the police officers involved had failed to give Christian medical assistance after wounding him and had attempted to destroy evidence. It also found that Christian had no gun or drugs. In June 1993 the military police officers involved in the shooting were sentenced by a military court to seven and

nine years in prison respectively for the crime of homicide. However one of the officers, supposed to be serving his prison sentence, was detained by civil police in Cuiabá in June 1994 when travelling with other off-duty military policemen in a stolen car.

Death squad killings

Violent death is a common occurrence in Brazil's urban centres. Gang violence and murder by individuals account for many of the killings, but a significant proportion can be attributed to death squads or "extermination groups". The death squads' victims are usually poor and often destitute: many are suspected petty criminals and many are young.

In Rio de Janeiro the first death squads were set up in the mid 1950s. They were allegedly created by senior police officers to combat crime and their initial members were off-duty police officers. Over the past 30 years the death squads have become the agents of powerful groups acting outside the legal framework, but with strong links with the forces of law and order.

There is strong evidence that civil and military police are involved in death squad activities in significant numbers. According to figures from an official body in Rio de Janeiro state⁴, of 159 people detained between April 1991 and June 1993 for their involvement in death-squad activities, 53 were members of the military police. The involvement of police officers in death squads has been acknowledged in several official documents by the state authorities. A document from the State Secretary for Justice of Rio de Janeiro State concludes that "the extermination groups are structured by pockets of the police who are involved in crime, moulded by a centuries-old tradition of violence against the lower classes and strengthened in their arbitrary behaviour by 20 years of military dictatorship."

Death squads vary considerably in their size, composition and methods. Some are criminal gangs engaged in drug-trafficking and other criminal activities. Some operate as part of large criminal networks with sophisticated organizations. Others are local vigilante groups which have little to do with organized crime, but impose their own social and political control over their neighbourhood. Their members are known as *justiceiros*.

In an interview published in a Rio de Janeiro newspaper, a well-known *justiceiro* justifies the death squads' activities: "...the groups [i.e. the death squads] are made up of people from the community, military policemen, traders and victims of crime who want to put an end to rising criminality. The police cannot patrol every neighbourhood, every street.... Meanwhile, crime is on the rise and the number of undesirables is multiplying. If it wasn't for us, the Baixada would be an even more dangerous place. There would be more muggings and robberies. We impose order."⁵

Death squads exert control over the local population through a mixture of intimidation and patronage. A witness of death-squad activities in a poor neighbourhood of the Baixada Fluminense, Rio de Janeiro, has described how the *justiceiros* operate within his community. The man, known as F, said that when he moved to the shanty town the leader of the local death squad visited his home to inform him about the shanty town's "by-laws". He said he was told that neighbourhood was a no-go area for the police. Any problem with his neighbours should be referred to members of the death squad. He was also warned that when a stranger came to visit him, he should always show the visitor out of the shanty town because unidentified strangers were liable to be detained and killed. F also claimed that members of the death squads exacted food and medicines from local people who would also, for example, be expected to contribute towards the cost of medical treatment for wounded *justiceiros*. Anyone who did not cooperate would be harshly disciplined.

In the words of F: "Occasionally the police come by here. Then they guess that a resident has complained about them and they send [some men] round to visit the person. If the police actually enter someone's house, it's like signing their death warrant".⁶

Local politicians often protect and support the death squads. In the Baixada Fluminense region of Rio de Janeiro, local mayors, municipal councillors and state and federal deputies have all been linked with death-squad activities. Following a wide-ranging investigation after the Vigário Geral massacre, charges were pending against a state congressman, formerly Commander of the 9th Military Police Battalion. The state legislative assembly has, as yet, failed to rule on whether his parliamentary immunity from prosecution may be lifted. Some people prosecuted for death squad killings work openly for local politicians. People with strong political connections are seldom brought to justice for such crimes. In their turn, local politicians use the control exercised by *justiceiros* over the local population to canvass for votes and to intimidate potential opponents.

Anyone who resists the control that death squads impose over "their" areas risks their life. Between 1991 and 1993, 31 community leaders were executed by death squads in Rio de Janeiro alone. Among them was Luís Carlos Bernardino Valin, a community leader of the Black People Movement in São João de Meriti. On the evening of 20 October 1986 Luis Carlos Bernardino Valin was dragged out of his home in the shanty town of Morro do Cruzeiro by four men. He called to his neighbour for help but they were too frightened to react. Luis Carlos Valin was then taken to a ravine just beyond his own backyard and shot five times. While he was being shot the mask of one his killers slipped down and neighbours could see that he was one of the local *justiceiros* that controlled the shanty town. Although a witness identified the killers to the police, nobody has been brought to justice for killing Luis Carlos Bernardino Valin.

People suspected of lodging complaints with the police are at great risk.

Cléber da Silva Barros, a shopkeeper, accused members of a death squad - among them three military police officers, of the murder of a friend of his in 1992 in the Jardim Corumbá neighbourhood of the Baixada Fluminense. In fear for his life, Cléber da Silva Barros sold his house and moved. In April 1993, he was shot dead by two men outside a bar in Nova Iguaçu. According to reports, he was killed six days after writing to the police asking for help and inquiring about the progress of the criminal investigation into the death of his friend.

The reasons why death squads continue to be able to act with impunity are complex. Intimidation and threats often draw a veil of silence over their death squad's activities. However, the failure of the state justice system has also resulted in a degree of tolerance for death squad activities, who are perceived by some as exercising a kind of rough justice. As a result, the true number of death-squad killings is believed to be substantially higher than the number of reported cases. The figures are further distorted by the refusal of police to register complaints, particularly in cases of "disappearances". Police investigations which are carried out are often defective and do not gather enough evidence to prosecute the suspects. Witnesses are always at great risk.

The judicial system throughout the country is in crisis. Judges often appear to have neither the will nor the means to bring the guilty to justice. A report by the Rio de Janeiro Chamber of Deputies on the killing of children and adolescents concludes that court staff are often infiltrated by members of death squads who abuse their position to pervert the course of justice. Public prosecutors are also targeted by the death squads. For example, Dr Tania Maria Salles Moreira, from the 4th criminal court of Duque de Caxias in Rio de Janeiro, who is known for her zeal in prosecuting death squad members now lives under 24-hour police protection. After compiling a dossier on irregularities in the 4th criminal court in 1990, which she claimed indicated judicial complicity in death squad operations, she was herself prosecuted for libel against the judge. A judicial administrative inquiry into the allegations against the judge has made no progress. In 1992, the same judge brought a libel action against a child rights activist who had alleged he was involved in

death squad activities. The case is still pending.

Many of the victims of death squad executions are children and adolescents, and this issue is discussed in detail below. One example from the many tragic cases illustrates how the killings of children and adults are part of the same pattern of violence and impunity.

The dead bodies of three children were found on the steps of a church in Rio de Janeiro on 18 June 1994. Two girls and a boy, aged between 12 and 15, were found in the early hours of the morning of Saturday 18 June, semi-naked in front of Santa Cecilia Church, in the Bras de Pina quarter, in the northern zone of Rio de Janeiro. The bodies had been arranged to form a cross on the tarmac. The boy had his hands tied behind his back. All had shotgun wounds to the head, chest and limbs. According to the police the children had been killed in other part of town and then taken to the church and left there. According to reports, the children were the tenth victims in 1994 of death squad-style extrajudicial executions in the Cordovil, Bras de Pina and Vila da Penha region of Rio de Janeiro. Other victims reportedly included prostitutes, beggars and mentally handicapped people. Only three days before the children's bodies were found, a 30 year-old-man had been killed on the steps of the same church. Several other bodies had been found in 1994 in the vicinity of the church. A neighbour reportedly said, "our street has become a graveyard".

Lynchings

One of the ways in which the death squads impose their domination is through lynchings – inciting mob violence against alleged criminals. The number of lynchings rose rapidly after Brazil's return to civilian rule and appears to be rising still. Lynchings appear to be acts of popular violence independent of the state, but they go unpunished and in reality they are often tolerated and even encouraged by agents of the state.

Among the cities where lynchings are a major problem is Salvador, the capital of Bahia, where 82 people were reportedly lynched in 1989, 94 in 1990 and similar figures in 1991 and 1992. But lynchings are a national issue. In Recife, Pernambuco state, five lynchings were registered in just one month between September and October 1993. Official complicity in illegal lynchings can be seen particularly clearly in the lynching of three robbers in Matupá, Mato Grosso state, which was filmed by an amateur video cameraman. The incident took place in November 1990. The video, which was broadcast on national and international television, shows the police negotiating with three robbers who are holding a family hostage. The police officer in command repeatedly reassures the robbers that they will not be killed if they give themselves and the hostages up. Eventually the robbers release the hostages unhurt and are hustled into a police car. The police commander appears jubilant. The scene moves to an area on the edge of town. The three robbers are lying in a pile, apparently unconscious, surrounded by a large group of people, which includes police officers, two local councillors and local businessmen. Suddenly the robbers burst into flames. One of them moves convulsively, and the mob shouts abuse at him. The dying man pleads for mercy and cries out that it was a policeman who commissioned the original robbery. According to the Mato Grosso state prosecutor, the police officers shot and wounded the robbers before turning them over to the crowd, and then stood by and watched as the mob beat them and set them on fire. Although 24 people were charged with homicide, the police officers involved are still on active duty. The police officer in command during the lynching has reportedly since been promoted.

When people take justice into their own hands innocent people often pay with their lives the crimes of others. The victims are usually poor: the poor attacked by the poor. Three youths were lynched and set on fire while still alive by a mob of about 300 people in Olaria, a suburb of Rio de Janeiro, on 3 July 1993. Rumours had spread in their neighbourhood that they had assaulted a woman passenger in a local bus. The youths, Marcos Vitorino Costa dos Santos, Carlos Henrique Aguiar dos Santos

and Cláudio Marcio Pereira da Silva, aged 15, were rounded up by the mob, tortured and tormented for over an hour before being set on fire. However, later investigations found no evidence that the youths were responsible for the crime for which they were lynched and none of them had a criminal record.

Killings of children and adolescents

The Brazilian Constitution states:

“it is the duty of the family, of society and of the State to give absolute priority to ensure for children and adolescents the right to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom and family and community life, in addition to safeguarding them against all forms of negligence, discrimination, exploitation, violence, cruelty and oppression”. (Article 227)

However, over the last few years the killing of street children has become the most prominent human rights issue in Brazil. Local human rights groups have documented and campaigned against the killing of children and adolescents for some years. Amnesty International's September 1990 report *Killings and Cruelty against Children* – was one of the first to succeed in bringing this issue to the attention of international public opinion. The report elicited a swift reaction from the Brazilian authorities. They reacted angrily to the adverse publicity, but openly acknowledged the country's serious human rights problems.

Already in June 1990 President Fernando Collor de Mello had affirmed in a national address after 100 days in office :

“We cannot be and will not again be a country cited as violent in reports by Amnesty International. Our society will not tolerate violence and we will not allow the ‘new Brazil’ to accept any form of disrespect for human rights.”

Since 1990, there have been numerous initiatives, draft laws, working groups and proposals aimed at tackling human rights violations related to children's rights. In October 1990, the Statute of the Child and Adolescent, came into force, which replaced the previous Minors' Code. Among other provisions, the Statute provided for the creation of councils for the rights of children and adolescents at national, state and municipal level, which would be responsible for enforcing it.

In January 1991, a working group was set up by the federal Minister of Justice to combat the killing of street children. It drew up a National Plan for Combating Violence Against Children and Adolescents. The working group also compiled a list of seven test cases of violence against children and adolescents for investigation by the authorities. To Amnesty International's knowledge, out of the seven test cases taken up by the working group, only one had resulted in a conviction by June 1994.

In the past four years, several reports on the killing of street children have been published: for example, there have been reports by the Federal Chamber of Deputies, the State Assembly of Rio de Janeiro, the Municipal Assembly of São Paulo, the São Paulo branch of the Brazilian Bar Association and leading non-governmental organizations. All these reports highlighted the seriousness of the problem and recommended measures to end the impunity still enjoyed by perpetrators of such human rights violations. So far, few of these recommendations have been put into practice by the authorities at either state or federal level. In spite of all the laws and initiatives the killing of children and adolescents continues.

The Candelária Massacre

In July 1993, a gang of hooded men opened fire on a group of over 50 street children who were sleeping rough near the Candelária Church in the centre of Rio de Janeiro. Eight children and young people aged between 10 and 20 were killed. Four boys died instantly, a fifth was killed as he ran away and two others were shot dead in nearby gardens. Another youth, Marcos Antonio Alves da Silva, died of his wounds four days later.

The murder of street children in one of Rio de Janeiro's most prominent landmarks

caused a national and international outcry. As a result, the authorities moved swiftly to investigate the killings and three military police officers were charged with the murders. They are still awaiting trial. However, despite repeated appeals to the state and federal authorities to provide protection and a place of safety for the children who witnessed the massacre, many witnesses continue to sleep on the streets where they have been repeatedly threatened, allegedly by members of the military police.

In the case of the Candelária killings, the children had clearly been singled out *because* they were street children. However, in most cases the victims are not street children as such but children and adolescents from the poorer suburbs of Brazil's major cities. According to a São Paulo Municipal Chamber Parliamentary Commission of Inquiry's report, over 90 per cent of children and adolescents killed in São Paulo in 1991 were not street children. Similarly, in the State of Bahia 72 per cent of the children and adolescents killed between July 1991 and July 1992 had a home. In September 1992, Amnesty International delegates visited São Paulo and talked to human rights workers, priests, teachers and neighbours from Sapopemba, a poor suburb on the eastern outskirts of the city of São Paulo. Local people stated that *justiceiros* were a constant presence in the suburb. They claimed that *justiceiros* intimidated the local population and that children were often their target. They said that lists of youths sentenced to death by *justiceiros* were widely circulate in the neighbourhood and were often displayed publicly. The youths' families are often too frightened to try to protect them. They also alleged that the local police were closely linked to the *justiceiros*.

A few days before Amnesty International arrived in Brazil, four adolescents whose names appeared on one of the *justiceiros*' lists, had been taken to a safe house under the protection of the São Paulo State Secretariat for the Child . However, state protection came too late for Reginaldo Jesus Silva, aged 12, Daniel Silva, aged 13, and Carlos Eduardo Gomes, aged 24. They were all killed on 6 September 1992, a few days before Amnesty International's visit to Sapopemba. According to reports, neighbours saw a group of armed masked men in the neighbourhood at the time of the killings. A local woman told Amnesty International that, shortly before the killings, *justiceiros* trying to recruit her husband had told him that they intended to murder some youths, and that the police would help. To Amnesty International's knowledge, nobody has been brought to justice for the killings of the three youths.

The scale of child killings

The murder of children and adolescents is not confined to the major cities. Cases have been reported throughout Brazil. For example, in greater Salvador, 129 killings children and adolescents were reported in 1993; 99 such killings were reported in Maceió between January and September 1993; and 189 killings were reported in Fortaleza between January and September 1993. Killings of children and adolescents have also been reported in smaller cities in the interior of Brazil. According to figures from the local branch of the National Boys and Girls Street Children Movement 36 adolescents and young adults were killed in 1993 in the city of Campinas in the interior of São Paulo. Most of the victims appear to have been extrajudicially executed.

Although existing data from both national and state sources on the killings of children and adolescents is incomplete and often inconsistent, some conclusions can be drawn about the groups which are most at risk. Homicide is the main cause of violent death among young people below 18 years of age in all the states where information is available. In 1993, it accounted for over 41 per cent of violent deaths among male adolescents. Figures for the same year show that young males were three times more likely to be victims of homicide than young women.

Impunity

Information about the perpetrators of these killings is still more scarce. This lack of information is an indictment of the government's failure to address the high level of impunity enjoyed by the killers of children and adolescents which ensures that the vast majority of these crimes remain unpunished. In most cases police inquiries are never completed. According to a report by the São Paulo Municipal Chamber Commission of Inquiry into Violence Against Children and Adolescents, of the 674 killings of children and adolescents which were reported to the police in São Paulo in 1991, only 335 cases were referred to the judiciary. Of the cases which were dealt with by the courts, only 20 per cent resulted in convictions. Similarly, in the state of Pernambuco, between January 1986 and July 1991, there were 460 recorded killings of people under 18 years of age. In only 118 of these cases was the police inquiry completed and passed on to the judiciary. In February 1994, in the State of Para, the Centre for the Defence of Children, condemned the lack of proper police investigations into cases of killings of children and young people. It claimed that in some of these cases public prosecutors routinely closed the files without requesting a proper investigation into the circumstances of the killings. In February 1992, a Federal Parliamentary Commission of Inquiry into the Extermination of Minors concluded that the involvement of civil and military police in the killing of children and adolescents is "far from exceptional" and that killings by police officers were the third largest known cause of killings of children and adolescents. Domestic violence and murder by criminals, particularly drug dealers, were the two largest categories.

In September 1991, a Rio de Janeiro State legislative Parliamentary Commission of Inquiry into the killing of children and adolescents found strong evidence that police officers and members of the judiciary were involved with death squads. Among the cases reported by the Commission was that of a former Police Commissioner for Minors, who was sentenced to six years in prison for the killing of a 15-year-old boy, but did not serve his sentence. The Commission expressed astonishment at the authorities' failure to enforce the prison sentence, given that the whereabouts of the former Commissioner were widely known.

On 29 November 1993, four youths were detained by officers of the 3rd Company of the Mato Grosso military police in the town of Várzea Grande. The bodies of two of the youths - Marcos José do Espírito Santo, aged 17 and Hemisfério Peres Ferreira, aged 16 - were found two days later in a lagoon on the outskirts of the town. They had been shot several times. The lieutenant in command of the 3rd Company of the military police acknowledged having detained the youths but claimed that the two boys had escaped from custody. However the two youths who had been arrested at the same time accused the lieutenant and two other police officers of the killings. The lieutenant claimed that the accusations were part of a smear campaign and that he had the backing of the local people. He stated, "One day the people will understand that I work against the bandits and in defence of the population". Although both civil and military police inquiries have been opened into the killings, to Amnesty International's knowledge, nobody has been charged with the murders and the police lieutenant and the other military police officers suspected of the killings continue to be on active duty.

In November 1992, 13-year-old Jean Alves da Cunha, a local leader in the National Movement of Street Boys and Girls in Espirito Santo, was detained, together with other street children, by four Justice Officers attached to the Juvenile Court. All were questioned and released that afternoon. However, according to reports, Jean Alves da Cunha, was rearrested later that evening. Two days later his body was found dumped on a hill in the city; he had been shot twice in the head.

A few weeks before his death, Jean Alves da Cunha had expressed fear for his life after he had publicly accused the police of forcing street children to commit crimes and share the proceeds with them. A police inquiry into his death was initiated

in late 1992 but, to Amnesty International's knowledge, nobody has been charged with his killing.

While most Brazilians react with horror to the killing of street children, a minority of the population regard them as "disposable criminals." In an extreme manifestation of this attitude, a local newspaper editor in the town of Londrina, Paraná state, published an advertisement in March 1994, urging citizens to kill child criminals. Police brought criminal charges against the businessman, who alleged that his intention was to try to intimidate the children and stop them committing crimes.

Violence in Institutions

Children are also victims of institutional state violence, particularly young offenders in institutions. Overcrowding and harsh conditions have resulted in frequent uprisings in juvenile detention centres, often followed by brutal reprisals by both police and members of staff.

On the afternoon of 30 March 1993, there was a riot by a group of young offenders at the Tatuapé Juvenile Detention Centre, São Paulo, which is run by the State Foundation for the Welfare of Minors, (FEBEM). The riot was quashed by a joint force of FEBEM's security personnel, São Paulo military police and members of a private security firm. According to the young inmates, after the riot was put down, they were beaten with truncheons and sticks. Immediately after the riot was quashed, the State Secretary for Children, stated that no children had been hurt. However, two days later, members of the Juvenile Court Prosecution and Welfare Service of São Paulo, visited the detention centre with a forensic doctor. They found that out of the 113 young inmates in the centre at the time of the riot, 75 had wounds and bruises which the doctor stated were consistent with beatings with blunt instruments and that six young inmates required hospital treatment. The São Paulo authorities have replied to Amnesty International that only 53 adolescents were injured, only two seriously. According to reports, the Chief of Security of FEBEM, who was in command of the operation to quell the rebellion, was already under investigation following allegations of beatings and ill-treatment made by inmates of another juvenile detention centre where he had been in charge of security in 1991. A police inquiry was opened into these allegations but, to Amnesty International's knowledge, no action has resulted.

On 22 March 1994, Edson de Almeida was detained, together with a friend, by members of the military police in Praça da Sé in the centre of São Paulo, on suspicion of having stolen a wristwatch. The boys were taken to the 1st Police Station. However, Edson managed to run away. According to his friend's statement, about 15 minutes later he was brought back to the police station by the military police officers who had originally detained him. The friend claims that Edson showed clear signs of having been beaten. He was coughing up blood and a finger of his right hand appeared to be broken. Edson was later taken by the police to a young offenders' institution, run by FEBEM. According to his friend, when he saw Edson again the following evening, he was moaning and asking to be taken to the infirmary. About 30 minutes later, Edson returned to his cell and told his friend that he had been beaten again by the warders and that he had not received any medical attention. Edson's mother visited him on 27 March and stated that her son was then very ill. She said he had bruises on his arms, knees, thorax and lower abdomen. Edson told his mother that he was urinating blood, coughing up blood and was unable to swallow food. He also told his mother that he had been beaten both by military police and warders. His mother insisted that Edson should be taken to hospital, but the warders would not allow her to travel with him, saying, "There is no place for a mother in the car of justice". Edson's mother returned home, where, later that evening, she was advised by a FEBEM employee that her son had died in hospital, probably of AIDS. When she tried to claim his body, the distraught woman was sent to four different places across the city before they allowed her to claim it.

Prison massacres

In a grossly overcrowded prison in São Paulo, on the night of 2 October 1992, 111 prisoners were killed by police.⁷ Many were machine-gunned to death while lying or sitting down with their hands on their heads. Some of the dead bodies were bayoneted: survivors who hid among the corpses were shot if they cried out. This massacre was not an isolated incident. It was just the worst episode in a recurrent pattern of brutality in prisons in Brazil.

On 2 October 1992, police were called to quell a disturbance in Block 9 of the Casa de Detenção. Evidence from prison staff suggested that the police were ordered to invade before negotiations with the prisoners had been attempted. The Secretary of Public Security told the press that in such disturbances, police are ordered to shoot to kill and that there was nothing absurd about police using machine-guns against prisoners. Police alleged that the prisoners had guns, but this was denied by inmates.

An Amnesty International delegation that conducted an on-site investigation shortly after the killings found considerable evidence that the majority of prisoners had been extrajudicially executed after surrendering. An official inquiry by the Federal Ministry of Justice's Human Rights Council concluded in December 1992 that "the military police killed 111 people in state custody without any justification". It said this was "a natural result of the violent public security policy of the government of São Paulo." In March 1993, the Military Prosecutor charged with homicide and other human rights violations 120 military policemen, including 40 officers. However, to date no ballistic testing – matching police weapons with bullets taken from prisoners – has been carried out, and officials say that it would be impossible to conduct them. This had been one of Amnesty International's most pressing recommendations. The trial of the 120 military police is expected to take at least five years. However a few of the families of those killed have received compensation from the state.

The excessive use of lethal force by the police during prison riots is also evident in other Brazilian states. Early in 1992, seven prisoners were killed by military police shock-troops during a riot at the Anibal Bruno prison in Recife. The rioting prisoners had committed serious acts of violence, including killing a hostage, and had threatened further violence. However, at least some of the prisoners appeared to have been extrajudicially executed after surrendering.

On 28 October 1991, 24 prisoners died in the Ary Franco prison in Rio de Janeiro as a result of a fire, started after a disturbance. Prison officers initially said that the fire was started by the inmates during the riot. Subsequent investigations, however, found compelling evidence that an incendiary device had been thrown into the cell by prison guards. Eighteen other prisoners were allegedly to have been severely beaten after the incident. Two prison guards were reportedly arrested and charged in connection with the deaths, but were later released because of lack of evidence. A report by the Rio de Janeiro branch of the Brazilian Bar Association, described conditions in the Ary Franco prison as "unbearable".

2. TORTURE

Torture is widespread in Brazil. The police, under pressure to combat rising crime, have taken the law into their own hands and tortured criminal suspects and prisoners. Although there is evidence that the incidence of torture has fallen in some states, including Rio de Janeiro and São Paulo, as a result of action taken by the authorities, torture is still widely reported.

On 12 April 1993 a local Bar Association, OAB, commission of inquiry into torture in police stations in Fortaleza, Ceará state, came across police officers torturing Antônio Ferreira Braga, a criminal suspect, in the Robbery and Theft police station. He was wrapped in a roll of carpet to prevent bruising when being beaten, and was being beaten with a wooden baton. He said that he had earlier been half asphyxiated

by having the rubber inner tube of car tyre placed over his face. The commission also found a stock of instruments of torture. The local OAB published a dossier in June 1993 documenting 20 cases of torture, including two deaths in custody in the state. It concluded that torture was a "police method of investigation." The dossier revealed a disturbing pattern of impunity. Police officers, who had previously been accused of torture, sometimes repeatedly, were allowed to continue in office, and the Public Ministry did little to investigate the allegations against them.

A typical example from the OAB dossier is the case of Edmundo dos Santos da Silva. He suffered a broken hand, loss of sight in one eye and impotence, reportedly as a result of being tortured by the police in May 1991. An official complaint, backed up by medical evidence was lodged in May 1991 with the Ceará State Attorney General's Office. However, no investigation was completed, on the grounds that the accused refused to cooperate. A new investigation was opened in 1993 under a new State Secretary of Public Security. However, police officers continue to threaten Edmundo dos Santos da Silva and two other victims, Carlos Francisco de Souza and José Dorval Ferreira Sousa. The Director for Discipline of the Police Inspectorate asked for the 13 police to be suspended from duty, but his request was apparently rejected by the Secretary of Public Security.

The commission of inquiry's initial findings produced a response from the authorities. A number of police were reported suspended or dismissed; the then Secretary of Public Security was dismissed; the Civil Police Statute was altered and a new State Security Council was set up. According to information received by Amnesty International, however, by June 1994, of the 20 cases of torture submitted to the authorities by the OAB, two ended with the police officers concerned being dismissed from the force, three were before the Police Disciplinary Board, one of two in the Secretary of Public Security's Office had 'gone missing', four were before the State Attorney General's Office and nine were not being investigated. Torture has been reported from many other states. In Rio de Janeiro, in the early hours of the morning of 14 October 1992, a group of eight armed men, some of them wearing civil police jackets, raided the home of Romilson dos Santos Reis, in the shanty town of Nossa Senhora da Guia, Lins de Vasconcelos. Some of the men were reportedly masked. They had no warrants. The men woke Romilson dos Santos Reis, who was asleep in the living room, and tied him up. For around two hours, they allegedly beat him with a stick, and kicked him and burnt him with a hot iron on the abdomen, legs, genitals and other parts of the body. His father was in his bedroom and could hear his son's screams, but could do nothing to help him.

Romilson dos Santos Reis lodged a formal complaint with the police and identified some of his assailants. He then allegedly received death threats. In January 1993, the Vice Governor of Rio de Janeiro wrote to Amnesty International that a civil police detective and a military police officer were in detention and another military police soldier and a civilian were being sought for the torture of Romilson dos Santos Reis. He attributed the positive outcome of the investigation to the work of the newly created *Delegacia Especial de Tortura e Abuso de Autoridade*, a special police unit to investigate reports of torture. He assured Amnesty International of his determination to protect Romilson dos Santos Reis and his family.

In the neighbouring state of Minas Gerais, on 9 October 1992, 20-year-old Paulo Henrique da Silva was arrested by two police officers in Divinópolis. Ten days later he was dead. He had been accused of stealing a cheque and was arrested, without warrant, and taken to a suburb of Campina Verde. There he was violently beaten and almost strangled by one of the police officers. He was released the same day when his father paid over a sum equal to that allegedly stolen. Paulo Henrique da Silva died 10 days later as a result of internal injuries. To Amnesty International's, knowledge nobody has been charged with his death.

In Brazil, the military police who are charged with maintaining public order, carry out many arrests. Some times their actions involve torture and ill-treatment of those under arrest. On 22 April 1992, Luiz Alexandre da Silva, a builder, was detained by the state military police near his home in Itapevi, São Paulo. Three hours later he was taken to the Itapevi police station, which is run by the civil police, where he later died. An autopsy by the official Legal Medical Institute reportedly found multiple bruises, superficial injuries to the limbs and extensive internal bleeding caused by the rupture of his heart and major blood vessels. A police inquiry was opened into the case but Amnesty International has received no information about any progress in the cases.

In another case in 1991, José Pereira de Araújo died in military police custody, allegedly because he had been beaten. José Pereira de Araujo was arrested on 23 April 1991 by members of the 1st Company of the 14th Battalion of the São Paulo military police. At the time of his arrest, he was reportedly drunk and armed with a knife. According to the official police report, he hurt himself by repeatedly knocking his head against the bars of the police patrol car. The police claimed that they took him to hospital to be treated for drunkenness, learning later that he had died in the casualty department. However, several eye-witnesses claimed that he was disarmed and offered no resistance, but was thrown to the floor, severely beaten and kicked by at least eight policemen. He was then thrown into a patrol car where his head hit the bars. Despite a police inquiry, and the identification by witnesses of four police, so far nobody has been charged with José Pereira de Araujo's death.

Youth has provided no protection against police torture and ill-treatment. Indeed, youngsters often appear to be regarded as having even less right to proper treatment than adults.

For 17-year-old Mauro Martins Solano police torture ended in death. He was detained by civil police officers in Cuiabá, Mato Grosso state on suspicion of theft on 22 September 1991. He was taken to Santa Isabel police station where he was allegedly severely beaten and his head forced under water. He died on the same day in the police station in the arms of his wife. According to the official death certificate, Mauro Martins Solano died of suffocation from being submerged in water. Two policemen were charged with his death but they have still not been brought to trial three years later.

Women have also been tortured by the police. On 23 July 1991 Miriam Peres Medeiros was taken to a police station in Queimados, Rio de Janeiro, for questioning about stolen goods. According to her statement, during interrogation police officers insulted her, sexually assaulted her, attempted to make her perform oral sex, beat her and gave her electric shocks. She was released later the same day without charge. In response to Amnesty International's expression of concern about the case, a police inquiry was set up and a police officer was charged with indecent assault, but to Amnesty International's knowledge he has not yet been brought to trial.

3. PRISON CONDITIONS

Brazil's prison system is in crisis. Four years ago, in its 1990 urban violence report Amnesty International described the prisons as being at breaking point, holding double their official capacity in "inhuman" conditions. Four years later the situation has not improved. In some respects, it has deteriorated. Overcrowding, lack of medical and legal assistance, torture and ill-treatment of inmates and harassment of visitors are endemic. A frightening and rising proportion of prisoners carry the HIV virus. In the Women's Prison of São Paulo, around 33 per cent of the inmates are infected with the virus, while in the male prison the figure reaches 27 per cent of the prison population. A study published in 1994 shows that the majority of prisoners are young (68 per cent), poor (95 per cent) and black (65 per cent). A group of inmates in the Desembargador Vidal Pessoa Central Prison of Manaus,

Amazonas held a peaceful protest against conditions in the prison on 19 February 1993. The prison authorities called in military police shock-troops. They reportedly beat the inmates, who had taken refuge in their cells, with batons, as well as hitting and kicking them. Subsequently they locked the inmates in their cells and threw tear gas grenades in after them.

For prisoners to complain to officials about their treatment takes enormous courage. In Recife, Pernambuco state, on 11 May 1993, prisoners told a visiting delegation in the Barreto Campelo Prison of the brutality they faced. The prisoners reported incidents of torture and named the alleged torturers, even though they were in the same room. The inmates expressed their fears of reprisals from the prison staff. Some of them told the delegates that the director of the prison had threatened them with severe punishment if they dared to speak out. The torture they described included beatings, near drowning, death threats and electric shocks.

In his report on the visit to Recife, one of the delegates, the President of the National Council for Penal and Prison Policy, noted that despite persistent reports in the local press about ill-treatment in prisons in Pernambuco, the Judge of Penal Sentences and the Secretary of Justice for Pernambuco claimed to have no official knowledge of the prisoners' complaints. He asked the state authorities to investigate the prisoners' allegations, but no information has emerged about any investigation. Two incidents involving prisoners with AIDS were reported in São Paulo in 1994. On 27 March, a woman prisoner who was in the final stages of AIDS in the Central Hospital of the Penitentiary System, was reportedly beaten by a prison warden. The woman, named Leci Nazareth da Silva, who was in great pain, was calling for the assistance of a nurse when, just after midnight, a warden came to her cell, shouted at her to shut up, and hit her in the face. According to the testimonies of other women inmates, after the incident Leci Nazareth da Silva's mouth and lips were swollen and she was bleeding. The warden reportedly threatened the other inmates with reprisals if they dared to report the incident.

On 31 March 1994, José Roberto dos Santos, also an AIDS sufferer, was severely beaten in the *Casa de Detenção*, in São Paulo. According to his written testimony, he was verbally insulted and physically abused by a prison warden in an argument. When he reported the incident to a prison official, the official insulted him again and beat him with an iron bar. The prison officer then ordered José Roberto dos Santos to be taken to a senior official's office in another part of the prison, where he was met by a group of about 13 prison wardens who punched him, beat him with iron bars and kicked him. As a result, he began to cough up blood and was forced to wipe the blood from the floor with his own hands. On 1 April, a prison chaplain visited him in the infirmary and saw that José Roberto dos Santos had bruises on his chest, back and upper limbs. He had a swelling on his right hand side above the kidney and wounds on both legs. Amnesty International knows of no action taken against those responsible.

4. BEYOND DESPAIR

In 1990 Amnesty International described the crisis in Brazil's criminal justice system and the action of some Brazilian police forces as 'Beyond the Law'. It did not seem that things could get much worse. The panorama in 1994 is even more alarming, however. Not only have the scale of human rights violations increased, and been punctuated by larger and larger massacres, but – despite some notable exceptions – the pattern of impunity for human rights crimes has continued with sickening regularity. Even in cases where witnesses have come forward and some attempt at prosecution has been made – the end result – as seen in the killings in 1992 of Ademir Barbosa Correia and Wilson Brito dos Santos in Salvador, Bahia – has often been the re-instatement of those accused into active duty in police forces, and the physical elimination of witnesses. The sluggishness of the judicial system to address these issues has contributed to the discrediting of institutions which would

normally be essential to a functioning democracy.

In the interim, the participation of police agents in death squad activities, and the blatant practice of extrajudicial executions by police in uniform - already evident in 1990 - are now publicly acknowledged by Brazilian authorities and society alike. The prison system, already at breaking point, has been the scene of successive massacres, while many prison inmates continue to live in conditions that amount to cruel inhuman and degrading treatment.

These matters are no longer the concern of only the victims, their families and those battling with courage and determination in human rights organizations, they affect the whole of Brazilian society. They call for the urgent mobilization of resources for institutional reform and for other immediate measures to establish the rule of law in Brazil and the prospect of respect for human rights for all. The consequences of not doing so are unthinkable.

Long-term and permanent progress in the protection of human rights requires major institutional reforms. The law enforcement agencies and the administration of justice need to be reformed from top to bottom if human rights are to be observed in Brazil. Together with institutional reform, significant steps should also be taken for the effective protection of victims of human rights violations.

This report can document only a few of the great many cases of human rights violations in urban Brazil that have come to Amnesty International's attention over the past four years. The extrajudicial execution of shanty-town dwellers in Rio de Janeiro, the massacre of prisoners in São Paulo, the routine torture of detainees in Ceará and the killing of teenagers in Mato Grosso, are all examples that the authorities are responsible - directly or indirectly - for gross human rights violations in Brazil's towns and cities.

Yet the struggle for human rights is not without hope in Brazil. There is a strong domestic human rights movement that actively campaigns on behalf of the victims of human rights violations. Street children are organized in a national movement that campaigns for their rights. Within the justice system there are public prosecutors who are committed to prosecuting those responsible for human rights violations. Some of them have received death threats as a result of their commitment to justice. Within the limits of its mandate, the Federal Attorney General's Office, has sought to monitor human rights violations, promote the observance of the rule of law and demand investigations into human rights crimes. At federal, state and municipal level, legislative assemblies have investigated and published reports on human rights violations. Human rights councils and state and municipal councils for the protection of children and adolescents have been set up in a number of states. The effective operation of these and other mechanisms is eagerly awaited.

In 1994 the government sent to Congress a package of draft laws which, among other things, would give greater powers to the National Council for the Defence of Human Rights, establish an assistance programme for street children and for victims of violence. Notably absent from the government's anti-violence package, however, were measures to transfer jurisdiction for military police crimes to civil courts and to define torture as a crime - concrete measures Brazilian human rights groups and Amnesty International have been calling for a number of years.

In the past, accusations of human rights abuses were systematically ignored or dismissed by the government. Today the Brazilian Government is increasingly using the discourse of human rights. Brazil has ratified most of the main international human rights treaties⁸ and at the 1994 General Assembly of the Organization of American States it supported the adoption of a new *Inter-American Convention on Forced Disappearances*. During 1994 it ratified the *Protocol to the American Convention on Human Rights to Abolish the Death Penalty*. At the United Nations Human Rights Conference in Vienna in June 1993 Brazil played an important role in supporting the establishment of a UN High Commissioner for Human Rights. In Vienna and in other

international human rights fora Brazilian diplomats have openly acknowledged the country's serious human rights problems and pledged to resolve them.

Following the publication of Amnesty International's June 1990 Report – Beyond the Law – President Collor de Mello invited Amnesty International to send a delegation to meet his government. The delegates presented the government with a memorandum containing specific recommendations for safeguarding human rights in Brazil. The federal government stated that it would transmit these recommendations to all state governments. Although it failed to do so, Amnesty International has welcomed the partial implementation of some of these recommendations, notably attempts to improve the collection and monitoring of information by the federal authorities about killings of children and adolescents. 1990 marked a turning point in the government's willingness to discuss human rights issues. President Itamar Franco's government has continued a dialogue with Amnesty International, and has responded to concerns from the international community by providing information about official action in relation to the more notorious cases of human rights violations.

Sadly, there is a vast gulf between official statements and improvements in human rights for ordinary Brazilians. Real progress has been painfully limited. Some gross human rights violations, particularly those who have attracted the attention of international public opinion, have been investigated. The alleged perpetrators of the Candelária and Vigário Geral killings have been charged. In a rare exception to the pattern of impunity enjoyed by the police forces, in September and December 1993 a police investigator and a prison guard were sentenced to a total of 516 years' and 45 years' imprisonment. They had ordered 51 prisoners to be locked in a nearly airless punishment cell in a São Paulo prison in February 1989, causing the death of eighteen prisoners. However, the vast majority of human rights crimes are never solved, and the guilty are rarely convicted.

It is within the power of the authorities to ensure that the right to life, enshrined in Article 5 of the Brazilian Constitution is more than an empty promise. Recent events show that respect for human rights can be enhanced, given the political will. The São Paulo police killed 1359 people during 1992; the victims were described as criminals killed during armed confrontations. This figure was 43 per cent higher than in 1990. However, following the outcry against the *Casa de Detenção* massacre, the number of people killed by the São Paulo police dropped dramatically. According to official figures a total of 239 people were killed by the São Paulo police during 1993. This fall strongly suggests that the use of lethal force by the São Paulo police has been controlled more effectively since October 1992, and that the political will to do so prior to that date was missing.

Progress has also resulted from small but significant changes in the prosecution service and the police. A forensic medical post has been set up within the offices of the Juvenile Court Prosecution and Welfare Service, *Promotoria de Justiça da Infância e Juventude* of the city of São Paulo. This allows immediate medical examinations of children who claim they have been ill-treated by police. Children have been encouraged to identify police officers who have assaulted them, without fear of retribution. As a result there was an 80 per cent fall in reported police violence against juveniles in the city of São Paulo between the third quarter of 1992 and the third quarter of 1993. Regular contacts between street educators from the Children Pastoral Service, *Pastoral do Menor*, and military police officers patrolling *Praça da Sé*, in downtown São Paulo, have eased tensions in what is traditionally one of the main flash points between street children and the police. A program of human rights education for the military police may also have contributed to this improvement.

These improvements are rather like lighted candles in the darkness – many more are needed to banish the shadows and herald a new dawn.

5. RECOMMENDATIONS

The Federal Government

The federal government is responsible for ensuring that Brazil abides by its human rights obligations under international standards. Brazil is a federative republic in which individual states have jurisdiction over offences committed within their territory. Nevertheless, the "federative principle" should never be allowed to justify persistent abuses of human rights anywhere in Brazil. Article 28 of the American Convention on Human Rights (San José Pact), ratified by Brazil in September 1992, specifically requires that federal states "immediately take suitable measures" to ensure that the provisions of the Convention are implemented at a national and state level.

Amnesty International therefore urges the federal government to consider introducing mechanisms which allow the federal authorities to monitor human rights observance in individual states and for federal courts to investigate and prosecute cases of human rights violations, if they have not been promptly, fully and impartially investigated at a state level.

Procedures for investigating human rights crimes should be reviewed, including the possibility of increasing the powers of the Federal Attorney General's Office to actively participate in such investigations.

Necessary resources, both human and material, must be provided to enable official human rights bodies, including agencies for the protection and welfare of children, to play their designated role in preventing and investigating human rights violations.

The Police

Radical changes are required to the entire structure of police forces in Brazil. In particular, there is a disturbing pattern of gross human rights violations involving members of the military police which the civilian authorities appear unwilling or unable to prevent. This raises serious questions about the organizational culture, constitutional status, chain of command, discipline and operational guidelines of the military police. These questions should be urgently reviewed by the authorities.

Institutional changes should be accompanied by a clear message to all law enforcement personnel that human rights violations such as torture and extrajudicial executions will not be tolerated under any circumstances and that those committing them will be punished according to law.

In view of the repeated failure of military courts to convict military police accused of human rights violations, the government should transfer jurisdiction for crimes against fundamental human rights committed by military police on active duty to the civilian courts.

Training programmes for members of police forces should fully incorporate instruction in international standards such as the UN Code of Conduct for Law Enforcement Officials, the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, and the UN Standard Minimum Rules for the Treatment of Prisoners.

Police supervisory authorities should ensure that these standards are respected and implemented within police forces.

All incidents of the use of lethal force by the police should be thoroughly and independently investigated, by an agency other than that to which those involved in the incident belong.

Clear instructions should be issued to all members of the security forces involved to preserve evidence at the scene of the incident.

Law enforcement personnel suspected of or charged with extrajudicial executions and other serious human rights abuses should be suspended from active duty, and in particular from street patrol, pending the outcome of investigations. This can be done without prejudice to their defence rights.

Security force personnel against whom there is evidence of involvement in extrajudicial executions, torture, "disappearances", or other human rights violations, should be prosecuted. This principle should apply no matter how much time has elapsed since the commission of the crime. The perpetrators should not benefit from any legal measures exempting them from criminal prosecution or conviction.

Investigations should establish chain-of-command responsibility for human rights violations and should investigate patterns of human rights violations as well as individual cases. Anyone found to have ordered, committed or covered up human rights violations should be brought to justice.

Steps should be taken to ensure that security force personnel fully cooperate with investigations and that members of the judiciary investigating human rights violations by the security forces are free from coercion and intimidation.

The judiciary

Steps should be taken to ensure that the judiciary is reformed into a body which carries out full and effective investigations into human rights violations.

It should be a high priority of the government to ensure that the civilian courts have the resources and legal means they need to administer justice. Procedures should be reviewed to reduce unacceptably long delays in investigations and in the gap between indictments and trials. Once they have adequate resources and the necessary legal changes have been implemented, members of the judiciary should be held accountable by an appropriate body if they fail to administer justice in a timely and fair manner.

In the light of problems provoked by persistent failings in police inquiries, ways of increasing the role of public prosecutors in supervising police investigations should be examined.

An independent professional forensic service linked to the judiciary rather than to the police service should be established.

Internal court audits should also be implemented to ensure that judicial officials understand their duties and carry them out accordingly.

Protection of victims and witnesses of human rights violations

The rights of the victims and witnesses of human rights violations must be protected. Amnesty International makes the following recommendations to improve such protection:

Steps should be taken to ensure the protection of lawyers, prosecutors, officials and witnesses, victims or relatives of victims, involved in cases of human rights violations.

Serious consideration should be given to establishing an effective witness protection programme in relation to such cases.

The authorities should ensure that human rights defenders, including people working with street children, receive the full protection of the law so that they can carry out their vital work.

All allegations of death threats should be promptly investigated and steps taken to ensure the safety of the recipient.

All arrested and detained people should be able to register complaints of torture or ill-treatment promptly without fear of reprisal.

All allegations of torture and ill-treatment should be investigated promptly, thoroughly and impartially by a judicial or other authority.

All deaths or "disappearances" in custody should be investigated thoroughly and impartially by a judicial or other authority.

Such inquiries should be initiated, if necessary, at the request of the victims' family or any person who has knowledge of the case.

The findings of such an inquiry should be made public in principle, unless doing

so would jeopardize an ongoing criminal investigation.

The appropriate authorities should review arrangements for the treatment and custody of all prisoners, to ensure that they are treated humanely and in conformity with the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, the UN Standard Minimum Rules for the Treatment of Prisoners, and Article 10 of the ICCPR, which states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Directives should be issued to ensure that individual judges are reminded of their obligations to supervise places and conditions of detention.

Improved record keeping in places of detention and imprisonment and more efficient parole and remissions procedures should be among the reforms targeted.

The state should provide appropriate reparation and compensation to the victims of human rights violations and their families.

Amnesty International acknowledges that violent crime is a major problem in Brazil. All criminal activities should be punished according to the law. However, security cannot be protected by "death squads", by unlawful killings, by torture or by killing street children. For too long too many people have accepted the killing of young suspects provided it was not their own son killed by mistake. They have accepted the public exhibition of the bodies of victims, provided they were not displayed in residential areas. They have accepted that large sections of the population are denied basic human rights because they are poor or live in the wrong area or are the wrong colour. But the politics of fear do not bring security. On the contrary, they degrade the society in which these crimes are tolerated and damage the international reputation upon which long - term prosperity depends. Only the rule of law can, in the long term, ensure social order.

Amnesty International hopes that in the run-up to the forthcoming elections, all candidates will consider how they can contribute to the future protection of human rights in Brazil, and that they will make their positions known publicly. Full and public debate on these issues would enhance public awareness and, in the longer term, would help ensure that any promises made now will be acted upon in the future.

FOOTNOTES/ENDNOTES

¹ *"Brazil : Beyond the Law : Torture and Extrajudicial Execution in Urban Brazil" (AMR 19/05/90).*

² *Although Brazil is among the 10 largest economies in the world, in its 1994 Human Development Index, the UN places Brazil in 63rd place in terms of social development.*

³ *"Rota 66: A História da Polícia que Mata" ,("Rota 66: The History of the Police that Kills".)*

⁴ *Centro de Denúncias Sobre Os Grupos de Exterminio, Centre for the Exposure of Death Squads*

⁵ *O Dia, 4 July 1993*

⁶ *O Dia , 8 July 1993*

⁷ *See Amnesty International's May 1993 report *Death has Arrived :Prison Massacre at the Casa de Detenção, São Paulo* AI Index : AMR 19/08/93*

⁸ *Brazil has not, however, signed the important Optional Protocol to the International Covenant on Civil and Political Rights, concerning enforcement mechanisms and individual appeals, and in its ratification of the American Convention on Human Rights Brazil has not recognized the jurisdiction of the Inter-American Court of Human Rights. Amnesty International hopes that Brazil will soon make these important commitments to guaranteeing human rights protection and enforcement.*

KEYWORDS: POLICE1 / IMPUNITY1 / EXTRAJUDICIAL EXECUTION1 / DISAPPEARANCES /

HARASSMENT / PRISON CONDITIONS1 / PRISON VIOLENCE / DEATH IN CUSTODY /
TORTURE/ILL-TREATMENT1 / DISABLEMENT / MEDICAL CONFIRMATION / INVESTIGATION OF
ABUSES / AIDS/HIV / JUVENILES1 / CHILDREN1 / HOMELESS PEOPLE1 / WOMEN / SHOP-KEEPERS
/ CIVIL SERVANTS / COMMUNITY LEADERS / MILITARY POLICE / PRISON STAFF / PARAMILITARIES
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