

BRAZIL

Police Violence & the 500th Anniversary

The 22 April 2000 marked the 500th anniversary of the arrival of the Portuguese on Brazilian soil. To celebrate this event the Brazilian government organized a host of events, costing \$R66.7 million¹, of which \$R1.7 million was spent on presidential security. The celebrations were focussed on the town of Porto Seguro in the south of Bahia, near where Portuguese ships first landed in 1500. Events included the making of a replica of the original ship that the Portuguese sailor, Pedro Alvarez Cabral, arrived in; the construction of various buildings in the indigenous town of Coroa Vermelha, including a shopping centre and a conference centre; as well as the installation, without permission, on indigenous titled land of an enormous metal cross on the site of the first mass celebrated by the Portuguese.

In the run up to these official celebrations several political movements, trade unions, NGO's, grass-roots and indigenous organizations set up what they called the "*Outros 500*", 'Other 500 years'. This initiative was planned as a way of using the symbolic date to focus on the situation of the indigenous people, the landless, racial minorities and other marginalized groups in Brazilian society. It was also seen as a means of contesting the official message being promoted by the federal government, both at home and abroad, which they claimed uncritically celebrated the 500 years of Brazil's history; ignoring the continuing injustices suffered by sections of Brazilian society, such as indigenous and black peoples and rural landless workers.

The official celebrations angered many groups who felt that a real opportunity for reflecting on Brazil's complex historical legacy was being suppressed in favour of a superficial national and international marketing campaign. This was nowhere better illustrated than in the use of images of indigenous peoples in the marketing campaign and the plan to invite a token indigenous delegation to participate in the celebrations. At the same time the authorities excluded indigenous leaders and representatives from around the country and denied them the right to participate in the celebrations and express their legitimate concerns regarding indigenous rights. The authorities' attempt to limit indigenous participation to the endorsement of official celebrations, led indigenous organizations and peoples to call an independent national indigenous conference to take place on the days before 22 April 2000 in Coroa Vermelha in order to agree an agenda for indigenous issues and bring these to public attention.

On the day of the anniversary, demonstrators from black and indigenous groups as well as popular activists, politicians, students and many others supporting the "*Outros 500*" campaign tried to peacefully march from Coroa Vermelha to Porto Seguro. Units of the military police blocked the road then reportedly used excessive force to break up the peaceful demonstration; attacking marchers with tear-gas, rubber-bullets and batons; leaving 30 protestors injured and 141 in short-term detention. Numerous witnesses alleged that the police attack was unprovoked and apparently designed to prevent the marchers from reaching Porto Seguro where the presidents of Brazil and Portugal were leading the official celebrations.

¹Approximately US\$35m

Although marchers were denied access to Porto Seguro, the police action appeared to demonstrate the Brazilian authorities' continued willingness to employ arbitrary state violence in order to silence inconvenient protests. Televised scenes of the police violence against indigenous and black marchers were broadcast both nationally and internationally, inadvertently confirming the arguments of the organizers of "*Outros 500*" about their exclusion from the event and society; and undermining the image of Brazil promoted in the public relations campaign surrounding the official celebrations.

However, rather than accept any responsibility for the violence, the authorities - including the President himself - praised the police for their action; denying any excessive use of force and attempting to assure public opinion that the measures had been essential in order to avoid worse violence. The authorities justified the police action by portraying the marchers as violent and intent on disrupting the official celebrations. Repeated unsubstantiated allegations were made in order to discredit the marchers and to suggest that left-wing agitators had infiltrated and manipulated the indigenous groups in order to cause violence. Media reports and numerous eyewitness accounts contradict these claims, and appear to expose a clear attempt by the authorities to discredit the "*Outros 500*" campaign and legitimize police violence.

In the aftermath of the police action and the ensuing public outcry, the Federal Public Prosecutor's Office in Bahia ordered the federal police of Bahia to conduct an enquiry into the police violence to establish whether there were sufficient grounds to bring criminal prosecutions against the Brazilian State. A civil case was also opened seeking moral and material compensation for indigenous groups affected by the police action.

In July 2000 the investigation by the federal police concluded that the state military police had not employed excessive use of force during the operation of 22 April 2000. However, the inadequacies of the investigation and the weight of the evidence contradicting its conclusions has led the Federal Public Prosecutor to challenge these findings.

Official approval for the police operation is overt: the military police officer in charge of the operation on 22 April has since been promoted by the state authorities in commendation for his part in the police action. Amnesty International is concerned at the failure to conduct an independent and impartial investigation into the events of 22 April.

Once again the quest for justice has been suffocated by the apparent demands of political expediency and Brazil's justice system continues to all but guarantee impunity for those responsible for ordering and carrying out human rights violations.

Chronology of events leading up to the 22 April 2000 celebrations

4 April

Around 200 military police enter the Pataxó reservation in Coroa Vermelha, Bahia, to destroy a monument recently constructed by indigenous people to commemorate the massacre of indigenous peoples in America by Europeans. The Resistance Monument

(*Monumento da Resistência*) was constructed next to the vast stainless steel cross erected by the organizers of the 500th anniversary celebrations to mark the location of the first mass celebrated by the Portuguese. The alternative monument, a 280m² map of Latin America adorned with traditional handicrafts and coral, was a protest against the authorities' exclusion of real plight indigenous people from the official celebrations. The construction of the steel cross without permission on Pataxó land, in contravention of Article 231 of the Brazilian Constitution², had inspired the creation of the "alternative" monument.

7 April

The '*Marcha Indígena 2000*' (Indigenous March 2000), starts as thousands of indigenous peoples from hundreds of tribes around the country set off in the direction of Porto Seguro. Both the state and federal government make clear that public demonstrations against the president during the celebrations will not be tolerated.

12 April

A delegation of indigenous chiefs en route to Porto Seguro in Bahia arrive in Brasília and announce that they plan to make an official invitation to the president, Fernando Henrique Cardoso (FHC), to attend the indigenous conference in Coroa Vermelha.

13 April

The indigenous delegation in Brasília go to congress to plea for the *Estatutos dos Povos Indígenas*, Indigenous Peoples Statute, to be passed. The bill, which has remained stalled in Congress for the last five years, is intended to codify the rights of indigenous peoples. The delegation also called for the lifting of the heavy policing operation in Bahia state prior to anniversary and the arrival of *Marcha Indígena 2000*. During the meeting with Congress, one of the indigenous chiefs evades the security cordon and points an arrow at Antonio Carlos Magalhães (ACM). ACM is a senator for Bahia, the president of the senate and a dominant figure figure in Brazilian politics. He is believed to have been involved in the decision to have such heavy policing around the town of Porto Seguro in the run-up to the celebrations. ACM is accused by one Pataxó leader during the meeting of handing out indigenous land to farmers during his time as governor of Bahia. The national media feature photographs of ACM with an arrow pointed at his head.

14 April

Outside the town of Itabuna the military police stop a convoy of supporters of the *Movimento Sem Terra* (MST), Landless Rural Workers Movement, on their way to Porto Seguro to join the indigenous march. The military police order all 400 MST supporters out of their buses to search them. The military police state that they have orders to search all

²Brazilian Constitution, Article 231, Native Populations and Lands

(0) Indians shall have their social organization, customs, languages, creeds, and traditions recognized, as well as their native rights to the lands they traditionally occupy, it being incumbent upon the Republic to demarcate them and protect and ensure respect for all their property.

(1) Lands traditionally occupied by Indians are those on which they live on a permanent basis, those used for their productive activities, those which are indispensable to preserve the environmental resources required for their well being and those necessary for their physical and cultural reproduction, according to their uses, customs, and traditions.

(2) The lands traditionally occupied by Indians are intended for their permanent possession, and they shall be entitled to exclusive use of the riches of the soil, rivers, and lakes existing thereon.

vehicles going to Porto Seguro. The MST supporters then set up a road block in protest, leading to a minor confrontation with police: three policemen are injured and 11 MST supporters arrested. The remaining MST contingent are later allowed to continue their journey.

15 April

Amnesty International delegates meet with members of *Conselho Indigenista Missionario* (CIMI), Indigenous Missionary Council, along with other organisers of the indigenous conference to be held on Coroa Vermelha. Delegates are informed of the constant scrutiny and harassment marchers have been subjected to by members of the military police in the run up to the celebrations.

After coming to an agreement with the Bahian authorities, the MST are allowed free passage to Porto Seguro for a 3,000 strong march to commemorate the anniversary of the Eldorado de Carajás massacre, where 19 MST supporters were killed by the military police in the state of Pará in 1996. The agreement was reached after the MST gave assurances that the marchers would leave the town before the 22 April celebrations, but in the following days the MST threaten to break the agreement.

16 April

Around 500 indigenous people representing 29 tribes, accompanied by MST supporters, march through the state capital of Bahia, Salvador, in protest against the 500th anniversary celebrations.

Amnesty International delegates attend an indigenous rally held at Monte Pascoal - the first part of the Brazilian coast sited by Portuguese sailors. The two delegates meet with many indigenous peoples from various tribes from around the whole country. Some have travelled for several days by boat to leave their traditional villages to participate in the *Marcha Indigena 2000* and the conference to be held in Coroa Vermelha. The delegation also took many statements from those present detailing the abuse and violence suffered by the indigenous communities of Brazil.

18 April

2,000 indigenous peoples camped in Santa Cruz de Cabrália - on the road to Porto Seguro, state that they are considering of joining with the MST and members of black movements to make their protest on the 22 April. They state that as long as the demonstrations are peaceful they are happy to join with other members of society excluded from the official celebrations.

19 April

The president attacks the MST, stating that the commemorations are not an "invitation to a wake" ("*convite a um velório*"; Folha de São Paulo, 20/4/00), in a reference to the protests being organized for the 22 April.

A public demonstration in Rio de Janeiro by students ended in violence. Around 300 students gathered around the clock set up by Globo TV to count down the 500 years. As the students attempted to move on to the main road, around 50 members of the military police's shock troops intervened using stun grenades, tear gas, truncheons and rubber bullets. One student was arrested and one was injured in the head, while one policeman was also injured.

An indigenous conference begins in Coroa Vermelha bringing together representatives from over a 100 different indigenous peoples from all over Brazil - some of those who attend had made their way to the conference on foot, some had never seen the sea before.

20 April

FHC arrives in Bahia, at a hotel on the island of Comandatuba. His agenda for the celebrations are still to be confirmed.

Organizers of the 'Outros 500' campaign announce that they are hoping to have 10,000 supporters in Porto Seguro on the 22 April. The 2,000 MST supporters camped on the road between Porto Seguro and the town of Eunápolis decide to march into Porto Seguro. In exchange for not making public protests against the president, the MST supporters ask for the possibility to meet with him.

21 April

The military police state that all banners and protests attacking the president will be prohibited from Porto Seguro. A high ranking military police officer stated that, "Freedom of expression is all well and good, but we cannot allow slurs against the established power, which is the president" ("*Liberdade de expressão, tudo bem, mas não podemos permitir ofensas ao poder constituído, que é o presidente*"; Folha de São Paulo 21/4/00). Furthermore the military police state they will be controlling entry into the town, prohibiting those who are 'armed' from having access to the celebrations. As part of the security preparations, numerous military police are brought in, along with mounted police, military police shock troops. Plain clothes police are reportedly infiltrated amongst the MST and indigenous protesters.

A delegation made up of senators, federal and state deputies and a number of bishops tries without success to negotiate with the military police, the State Governor and representatives of the Federal government to allow the indigenous marchers to enter Porto Seguro.

The president's planned visit to Porto Seguro is cut down to six hours.

22 April

The day of the 500th anniversary. At 9 am approximately 1000 marchers are stopped on the road from Coroa Vermelha to Porto Seguro by military police shock troops. Police reportedly start firing tear gas and rubber bullets and baton charging the demonstrators in order to disperse the group.

Two hours later, members of the Xavante and Pataxó peoples lead at least 3000 marchers, including black and other indigenous groups, trade unionists and opposition politicians along the same road from the indigenous conference at Coroa Vermelha toward Porto Seguro through the municipality of Santa Cruz Cabralia. Near the municipal border of Porto Seguro marchers are stopped by military police shock troops blocking the road. The police strategy appears designed to prevent different groups of marchers from joining together and stop them reaching the town of Porto Seguro.

Witnesses have since testified that the protests were peaceful despite repeated provocation from the police ranks and reported police infiltrators amongst the demonstrators attempting to incite violence.

Despite the reported lack of provocation from the protestors, once again, police fire tear gas and rubber bullets on the crowd, which includes children, then baton charge and beat numerous protestors. In the resulting panic demonstrators flee pursued by the police who continue to fire tear gas at the marchers as they are chased a kilometre back toward Coroa Vermelha. Some protesters retaliate by throwing stones and arrows. The police operations during the day leave at least 30 protestors with minor injuries and 141 detained, all of whom were subsequently released. There were no reports of police injuries.

According to reports, in moments before the violence erupts, the police attempt to prevent members of the media from circulating among the marchers and photographing the demonstration and the police violence. Lula Marques, a photo-journalist from a national newspaper, the Folha de São Paulo, is one of those temporarily arrested by the military police.

The aftermath

Although the police operation was deemed a success by the authorities, scenes of the police intervention were broadcast and printed in national and international media, leading to widespread criticism of the policing of the anniversary celebrations. Carlos Frederico Marés de Souza Filho, the president of the *Fundação Nacional da Indígena* (FUNAI), National Indian Foundation, the governmental office for indigenous affairs, who witnessed the police violence at first hand, resigned in protest, saying "I cannot remain part of a government that performs acts of aggression against the indigenous movement" ("*Não posso permanecer num governo que faz uma agressão física ao movimento indígena organizado*"; Folha de São Paulo 23/4/00).

A number of Federal Deputies who also participated in the *Outros 500* demonstration on 22 April made speeches in the Brazilian parliament testifying to the arbitrary and excessive use of force by police against demonstrators and called for investigations and for those responsible to be brought to justice.

The political pressure for an investigation into the police action led President Fernando Henrique Cardoso to request the Ministers of Justice and Public Security to look into what had happened on 22 April, but this did not result in state and federal backing for a thorough and independent investigation.

Criminal and civil proceedings

The reports of human rights violations committed by the police were filed with the local Federal Public Prosecutor in the jurisdiction of Ilheus, which covers the municipality of Santa Cruz Cabrália - the scene of the violence. On the basis of these complaints he ordered the Bahia federal police to conduct an enquiry into the allegations of police brutality to establish whether there were sufficient grounds to bring criminal charges against the military police of Bahia. A civil action was also opened to establish the claim for compensation for the victims of the police action. The federal prosecutor responsible for initiating these judicial proceedings had previously played an important role in taking judicial action against the police for illegally entering Pataxó indigenous land and destroying the alternative

monument at Coroa Vermelha on 4 April. In July 2000, the federal police investigation exonerated the state military police of all blame for the violence and concluded that excessive force had not been used during the operation of 22 April 2000. However, according to reports received by Amnesty International, the police investigation was inadequate and superficial. Representatives of Federal Public Ministry informed the organization that they do not accept the federal police findings. In order to contest the claim of the police investigation, the prosecutor in charge of the case has presented the presiding judge with a number of testimonies of indigenous people who were present on the day of the march and which clearly contradict the findings of the police investigation. The federal police have a period of 90 days to disprove the evidence contained in the testimonies. Failing this they will have to accept before the judge that the testimonies are true.

A serious problem facing both the criminal and civil cases is that both the offices of the federal police and the Federal Prosecutor's Office in Bahia are seriously under-resourced. This, coupled with the apparent hostility of the authorities to a proper investigation being carried out, mean that the original 90 day period is liable to be extended indefinitely by the judge in order to allow the federal police time to verify the testimony of indigenous witnesses, the majority of whom have now returned to their communities in many different parts of the country. Unless the authorities provide the resources and political support necessary for the criminal case to proceed, the chances of mounting a successful prosecution is ever more unlikely. If this does occur, then once again those responsible for human rights violations in Brazil will benefit from the protection of an ineffectual judicial system which is incapable of securing justice in the face of powerful vested interests, particularly when the victims are indigenous peoples or other groups that suffer discrimination.

Exemplifying the overt manner in which the Bahia state authorities have demonstrated their support for officials implicated in the arbitrary use of violence of 22 April, the officer in charge of the police operation was subsequently promoted in direct recognition for his part in the police action. The fact that the authorities not only failed to suspend officials under investigation pending the outcome of the criminal case, but showed explicit support for their actions, demonstrates all too clearly the difficulty facing the federal prosecutor in mounting a successful prosecution of those responsible.

The civil case filed against the police continues but progress has also been seriously hampered by the isolation and lack of resources available to the Federal Prosecutor's Office in Ilheus. At present indigenous organizations involved in the *Marcha Indígena 2000* are claiming damages of \$R6.12 billion. The indigenous organizations that have brought the case calculated that as the cost of the presidential security operation for the 22 April was \$R1.7 million and there were 3600 indigenous people affected by the police action, then they should each have benefited from the same level of security as the president, thus the total compensation claim of \$R6.12 billion. In order to substantiate the claim, statements from all 3600 indigenous people need to be gathered. However, this is no small task as the majority of those who participated in the events of April 22 left the state of Bahia shortly after and returned to their communities in many different states around the country. At present federal

prosecutors around the country have been requested to gather testimonies from indigenous peoples who participated in the *Marcha Indígena 2000*. Given the size of the task and failure of the authorities to support the efforts of the federal prosecutors office to move the case forward, it seems likely that if the present circumstances continue the civil case will struggle to make progress.

In October 2000 indigenous groups met in Brazilia. Discussion of the civil case and approaches to moving it forward was one of the issues discussed.

Conclusions

On 22 April 2000, the 500th anniversary of the Portuguese arrival in Brazil, the state military police in Bahia reportedly used arbitrary and excessive police force in order to prevent protestors from the *Marcha Indígena 2000* and *Outros 500* campaign from reaching Porto Seguro, Bahia, where official celebrations were taking place. The police used tear gas, rubber bullets and baton charges to break up two peaceful marches on the same road leaving many injured and detained. Photographs and witnesses appear to bear out the claims of those who participated in the protest that the police action was reportedly unprovoked and brutal.

The state and federal authorities, which had invested both politically and financially in the 500th anniversary celebrations, have sought to make political capital from violence by portraying the victims as the perpetrators, while commending those apparently responsible. The Federal Prosecutor's Office, which has made efforts to prosecute those responsible and secure compensation for the indigenous people affected, has been severely hampered by a lack of resources and a clear unwillingness on the part of the federal and state authorities for the case to be pursued with due diligence.

By taking this course of action the authorities have borne out the original claims of the protestors: that the marginalized and dispossessed, such as indigenous and black groups, continue to be denied justice in Brazil. Furthermore, the refusal of the authorities to ensure a comprehensive, transparent and impartial investigation of the events of 22 April 2000 demonstrate once again that the judicial system continues to ensure that justice is not equally available to all.

Recommendations to the federal and state authorities

- ↯ The authorities should immediately review the criminal and civil judicial proceedings underway into allegations of excessive and arbitrary force used by police against demonstrators on 22 April 2000 in the municipality of Santa Cruz Cabrália, Bahia state, in order to provide an appropriate climate for a free and fair judicial process to take place;
- ↯ The federal prosecutor in charge of the case has stated that the initial federal police enquiry was superficial and inadequate, the authorities should therefore immediately order a new adequately resourced, thorough, impartial and effective investigation into the events of 22 April 2000 in order to establish criminal responsibility, bring those identified to justice and secure adequate compensation for the victims;
- ↯ Federal and state authorities should publicly and privately endorse judicial efforts to establish responsibility for the violence of 22 April 2000 and should take steps to suspend all officials implicated, pending the outcome of the proceedings. It is the responsibility of the authorities to ensure that a free and fair judicial process can take place in which the victims have access to justice and redress;
- ↯ In order to ensure transparency the findings of the investigation into the events of 22 April 2000 should be made public;
- ↯ The action of the police on 22 April 2000 should be judged strictly in accordance with the standards set out in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Code of Conduct for Law Enforcement Officials³. These international standards identify strict limits to the use of force by law enforcement officials; establishing that force can only be used "in proportion to the seriousness of the offence and the legitimate objective to be achieved".
- ↯ The authorities should also ensure that the above mentioned United Nations standards are fully incorporated into the training, procedures and practices of all law enforcement officials and that steps are taken to establish the independent monitoring of policing methods and practice across the country;
- ↯ Over the last 40 years Amnesty International has documented systematic human rights violations against marginalized sections of Brazilian society, such as indigenous peoples and landless rural workers, either directly at the hands of state agents or with their connivance or complicity. The organization calls on the authorities to respect the rights of these groups to bring to public attention these well documented patterns of abuse and the continuing failure by the authorities to grant them full and fair access to justice.

³Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990. Code of Conduct for Law Enforcement Officials, Adopted by General Assembly resolution 34/169 of 17 December 1979. AI Index: AMR 19/29/00 Amnesty International December 2000

- ▭ Amnesty International is concerned that the failure of the authorities to effectively and impartially respond to the violence events of 22 April 2000 may be symptomatic of institutional discrimination in the justice system against indigenous peoples and other minorities. Amnesty International, therefore, calls for an independent enquiry to look into this issue and prepare recommendations and a plan of action in order to ensure that all sectors of society are guaranteed full and and fair access to justice.