

BRAZIL

Impunity and the Law: The Killing of Street Children in Rio de Janeiro State

A Comissão Parlamentar de Inquérito para Apuração de Responsabilidades pelo Extermínio de Crianças e Adolescentes no Estado do Rio de Janeiro, Parliamentary Commission of Inquiry to Investigate the Extermination of Children and Adolescents in Rio de Janeiro State, was set up in March 1991 by the State Assembly of Rio de Janeiro. Among the reasons given for the creation of the Commission were denunciations by Amnesty International of the killing of street children and adolescents in Brazil. The following is a summary of the Commission's findings and recommendations published in September 1991.

Statistics of Street Children Killed in the State of Rio de Janeiro

In its report the Commission provides statistics covering several periods and areas from Rio de Janeiro State and the country where the killings of street children have been recorded. According to one of the figures cited by the Commission, between January 1987 and July 1988, 306 children were killed, mostly by grupos de extermínio, death squads, in the municípios, municipalities, of Volta Redonda and the so called "Baixada Fluminense", which covers some of the poorest and more violent suburbs of Rio de Janeiro. The Commission stated that the real figures may probably be even higher, because of the existence in the Baixada Fluminense of a number of clandestine cemeteries where death squads are used to burying their victims.

Official statistics from the Secretaria da Polícia Civil do Rio de Janeiro, Secretary of the Civil Police of Rio de Janeiro, reveal that 427 homicides against children and youths under 18 took place in 1990 in the state of Rio de Janeiro alone. According to the same source, between January and June 1991 a further 139 children were murdered. The Commission itself recorded 92 cases of murder of children during the course of its work (March-September 1991).¹

¹ Further to the publication of the Commission's report, the Secretary of the Civil Police of Rio de Janeiro reported that 306 homicides against children and adolescents were recorded in the state of Rio de Janeiro in 1991. The figure represents a fall from the official figure of 427 killings of children and adolescents recorded in 1990. However human rights organizations in Rio de Janeiro contested the official figures for 1991 and claim that there was no significant fall in the number of children killed in 1991 in relation to 1990.

c. Maria Luiza Carvalho

1. Street child in a demonstration in Rio de Janeiro against the killing of street children. The banner he is holding reads: 'Preserve Human Nature'. October 1991.

The culprits and accomplices of the killings

According to the Parliamentary Commission's report, most of the killings were carried out by death squads. Death squads are criminal gangs, in many cases integrated by off-duty civil police and military police officers, usually hired by local shopkeepers to "clean up" the area from alleged criminals and petty thieves. The alleged names of members of 15 death squads and their areas of operation are listed in the report. However the report emphasises that no evidence was found of the existence of death squads specialized in the elimination of children and adolescents, as both adults and children are victims of death squads' violence.

The Commission found evidence that suggested police and judiciary authorities' involvement with death squads. For example it found that identity cards that credited the holders as ad-hoc judicial officers or members of the jury were issued by judges to people suspected of being members of death squads. Three of the Rio de Janeiro state judges were named as being involved with people suspected of participating in death squads activities. The Commission also reported the alleged participation of municipal guards and members of private security firms in the death squads.

Among the cases reported by the Commission was that of a former police commissioner for minors, comissário de menores, who was sentenced in 1989 to six years imprisonment for the killing of a 15-year-old boy, but has never served 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. The report lists the former commissioner's work address and telephone number. Moreover the Commission discovered that, in 1985, while still on duty, the commissioner was charged with various crimes, including possessing false car plates numbers and a gun belonging to the navy that was lent to him by a judge who had it in judicial custody. The Commission states its concern that after such serious charges the commissioner continued for a time to be trusted with children's cases by the Justice of Children.

The Commission also received reports of ill-treatment of street children by a group of commissioners for minors who, while off duty, provided security services to a supermarket chain. According to denunciations received by the Commission, street children who were loitering around these supermarkets were locked inside the supermarkets' cold storage chambers as a punishment.

Specific Cases

The Parliamentary Commission's report includes some examples of crimes against children and adolescents. Some of the cases mentioned in the report have already been presented to the Brazilian authorities by Amnesty International.

One of the cases mentioned in the report is the "disappearance" of 11 people, six of them minors, who were abducted on the night of 26 July 1990 by a group of armed men from a farm in Magé, Rio de Janeiro state. Two of the victims were residents of the farm and nine lived at the Acari *favela*, shanty town, in Rio de Janeiro city (see Amnesty International Report 1991 and APPENDIX 1). Although civil and military police investigated the "disappearance" of the 11 and searched the region around the farm, their whereabouts are still unknown.

Marilene Lima de Souza, mother of one of the "disappeared", is quoted in the report alleging that the police inquiry found evidence of the involvement of police officers from the 9th Military Police Battalion from Rocha Miranda, Rio de Janeiro state, and from the Cargo Theft Department, Delegacia de Robos e Furtos de Cargas, (DRFC) of the 39 Police Station, Delegacia de Polícia, of Pavuna, Rio de Janeiro, in the abductions.

Furthermore, according to the report, the Military Police investigating the case reported that there were violence and arbitrariedades "irregularities" at the Favela de Acari committed by Military Police of the 9th Military Police Battalion, known as Cavalos Corredores, "Running Horses". Two members of the group are named in this statement.

The Commission states that:

"the barbaric nature of the kidnapping was such that it became known outside Brazil and was reported by Amnesty International."

"esse múltiplo seqüestro reflete tanta barbaridade que extrapola as fronteiras nacionais para merecer a atenção da Anistia Internacional, com sede em Londres."

The Commission states that it is imperative:

"to solve these cases immediately, not only because a response has to be given to protests made by Brazilians, but also to protect the external image of the country" (Amnesty International's emphasis).

"a solução do presente caso se faz imediata, não só pelo reclamos da justiça da sociedade, como também pela imagem externa do País."

Another case raised by the Commission is that of brothers Aldenir Calisto Mendes and Mágnio Fernando Mendes, from the suburb of Duque de Caxias, murdered on 2 February 1988 (see APPENDIX 2). The two youths were reportedly taken from their home by two

armed men who claimed to be police officers. The boys were found shot dead the following day. Their mother told the Commission that she had recognized the assailants as a former military police officer and a gunman from a nearby town and named both of them. The Commission states that the information provided by the mother should have allowed the police to detain the alleged culprits and solve the crime. However, by the time of the publication of the report, nobody had been charged with the crime.

Intimidation of Witnesses

Often when a witness is willing to testify against death squad members, his/her life is in danger as the state authorities seem unable to guarantee his/her security. For example, Marco Antonio Costa Silva, a street child who witnessed the killing of Cleiton Pereira Diaz, a 13-year-old boy, killed in Rio de Janeiro in 1991, and who had been prepared to testify in court, was assaulted in September 1991. He had his body soaked in paraffine and glue was poured over his head. Cleiton Ricardo Pereira Diaz was killed allegedly by a security guard who had the status of ad-hoc justice officer given by a judge. It has been alleged that Marco Antonio Costa Silva was assaulted by members of the same firm as the security guard allegedly responsible for the killing of Cleiton Ricardo Pereira Diaz.

The Commission called on the Secretary of Civil Police of the State of Rio de Janeiro to investigate the killing of Cleiton Ricardo Pereira Dias and the attack against Marco Antonio Costa Silva and to ensure his safety (see APPENDIX 3).

The Commission's Recommendations

In its conclusions the Commission acknowledged "the problem of the increasing rate of killings of children and adolescents" "...problema do extermínio de Crianças e adolescentes que está em escala crescente." It concluded that the number of unsolved cases of killings was disturbing and far higher than those solved. It suggests that in accordance to the basic principles of the Statute of the Child and Adolescent, the state should seek to remove the children from the street through comprehensive welfare programmes and ensure that their families receive the necessary financial support to look after them (see APPENDIX 4).

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2. Street children demonstration in Rio de Janeiro against killings of street children.
October 1991

The Commission also put forward a number of specific recommendations to fight the extermination of children and adolescents in the state of Rio de Janeiro:

- a) The creation of a special police body, technically qualified to fully investigate crimes against children.
- b) Penalties for killings of children and adolescents should be increased and those accused should not be granted bail.
- c) Trials of people accused of killings of children and adolescents should be transferred to capital cities [n.b. to avoid undue pressure from local interested parties].
- d) To consider the creation of criminal courts dealing exclusively with crimes against children and to enforce improvements in the organization of the judicial system, so that trials are carried out with expediency.
- e) The provision of "safe houses" to protect witnesses should be contemplated.

APPENDIX 1

Further Information on the "disappearance" of 11 people in Magé, Rio de Janeiro state and on death threats to their mothers.²

Viviane Rocha da Silva (age 14)
Cristiane Souza Leite (age 15)
Edson de Souza Costa (age 16)
Hudson de Oliveira (age 16)
Luis Henrique da Silva (age 17)
Antonio Carlos da Silva (age 18)
Wallace de Souza Nascimento (age 18)
Rosana Souza Santos (age 19)
Moisés dos Santos Cruz (age 27)
Luiz Carlos Vasconcellos de Deus (age 30)
Helio do Nascimento (age 40)

On the night of 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. Two of the victims were residents at the farm and nine lived at the Acari, favela, shanty town, in Rio de Janeiro city.

According to Brazilian press reports, the intelligence section of the Military Police identified the kidnappers 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, Delegacia de Roubos e Furtos de Cargas (DRFC), from the 39 Police Station, Delegacia Policial, of Pavuna, Rio de Janeiro. According to the military police report, the police officers -hooded and in plain clothes- raided the farm in search of the youths some of whom were allegedly involved in thefts and drug peddling. The abductors took away their victims in two vehicles, one of which was found five days later, at about ten kilometres from the farm. The vehicle had been set on fire and blood stains were found on the seat covers.

The police report indicated that military police officers had been extorting some of the victims before their "disappearance". According to the police report, on 14 July 1990 three uniformed military police officers raided a house in the Acari favela, detained Edson de Souza Costa, Viviane Rocha da Silva and Moisés dos Santos Cruz, took away property from the house and demanded a sum of money to release the minors. The officers released the children after their relatives payed part of the money demanded and agreed to pay the rest at a later date.

² The eleven "disappeared" cases have been taken up by Amnesty International and allocated to Amnesty International groups.

On a visit to Brazil in May 1991, Amnesty International representatives presented the case of the 11 "disappeared" to the state secretary of public security, a well-known human rights lawyer. He told Amnesty International delegates that the case was still under investigation. However, although on 15 August 1991 two military police and six detectives were identified by witnesses in an identity parade as being involved in the kidnapping, to Amnesty International's knowledge no one has been brought to justice in connection to the 11 "disappearances". Civil and military police had reportedly searched the region around the farm but the whereabouts of the 11 is still unknown.

Mothers of the "disappeared" who have denounced the "disappearances" and actively campaigned for an investigation, have reportedly received repeated death threats. Some of the mothers have publicly denounced that members of the military police that patrol the Acari shanty town, favela, where they live, have harassed and threatened them. The names of the mothers living in Acari and reportedly receiving death threats are Marilene Lima de Souza, Vera Lúcia Flores, Edméia da Silva Eusebio, Denise Vasconcelos, Euzilar Joana da Silva Oliveira, Ednéia Santos Cruz, Teresa Souza Costa (See UA 37/92, AI Index: AMR 19/01/92).

c. Américo Vermelho/Istoé

3. Sra. Ana, Sra. Marilene and Sra. Vera. Mothers of three of the 11 people abducted by a group of armed men from a farm in Magé, Rio de Janeiro state.

APPENDIX 2

Information on the possible Extrajudicial Execution of Aldenir Calisto Mendes and Mágnio Fernando Mendes.³

c. Jornal do Brasil/Joao Cerqueira

4. Maria Madalena Mendes. Mother of Aldenir Calisto Mendes and Mágnio Fernando Mendes, the two brothers killed.

According to information received by Amnesty International, Aldenir Calisto Mendes and Mágnio Fernando Mendes were detained on 2 February 1988 at around 11 pm, at their mother's house in Duque de Caxias by a group of men who claimed to be police officers,

³ See Brazil: Torture and Extrajudicial execution in urban Brazil AMR 19/05/90 and Focus Amnesty International Newsletter September 1990.

agentes da polícia, from the 59 Police Station (59 Delegacia Policial). The men reportedly told the youths' mother that they were taking her sons to the police station for questioning. The men produced neither arrest warrant nor identification.

Their mother, Maria Madalena Mendes, went to the police station immediately fearing for her sons' safety but was told that her sons were not there and that she had to wait 24 hours before she could report the boys missing. In the early hours of the morning of the following day a neighbour found the bodies of Aldenir Calisto Mendes and Mágnio Fernando Mendes 500 metres from their mother's home. No one has been detained in relation to the killings.

The men who had abducted the two brothers and claimed to be members of the police had been reportedly looking for another brother, 19-year-old Evandro Sergio Mendes, allegedly implicated in the shooting of a military police officer. Eleven months later, on 2 January 1989, Evandro Sergio Mendes was shot and killed in circumstances unknown to Amnesty International.

Maria Madalena Mendes has continued to press for an investigation on the killings. She has repeatedly expressed fears for her safety and says that every time she goes out, she leaves a note giving her destination, so that if "I die at least my body will be found". [se eu morrer, pelo menos encontrarão o corpo].

APPENDIX 3

Information on the threats and intimidation against Marco Antonio COSTA SILVA

In 1991 Marco Antonio Costa Silva witnessed the killing of Cleiton Ricardo Pereira Diaz, a 13 year-old boy, in Duque de Caxias, a district of Rio de Janeiro. Allegedly the killer was a security guard from the Municipal Market of Duque de Caxias, who also had the status of ad-hoc justice officer given by a judge in January 1989. The Rio de Janeiro State Parliamentary Commission of Inquiry on the Extermination of Children and Adolescents reported that in September 1991, after testifying against the alleged killer, Marco Antonio Costa Silva was assaulted allegedly by members of the same firm as the security guard accused of Cleiton Ricardo Pereira Diaz's killing. Marco Antonio Costa Silva had his body soaked in paraffine and glue was poured over his head. The Commission requested the authorities to ensure the safety of Marco Antonio Costa Silva.

Further to the publication of the Parliamentary Commission's report, Amnesty International learned that on 28 October 1991, Marco Antonio Costa Silva was shot and wounded by two unknown gunmen when he was together with other street children, in Praça do Pacificador, a public square in Duque de Caxias, Rio de Janeiro. While in hospital, Marco Antonio Costa Silva reportedly received further death threats from an unknown visitor.

After the incident Marco Antonio Costa Silva was reportedly placed under police protection.

APPENDIX 4

The Statute of the Child and Adolescent

In July 1990, following a growing internal and international outcry about the killing of street children, the Brazilian Government passed the Estatuto da Criança e do Adolescente, Statute of the Child and Adolescent.

The statute is a legal code for the protection of children's rights. Article 5 establishes that:

"no child or adolescent will be subjected to any form of negligence, discrimination, exploitation, violence, cruelty and oppression, and that any violation of their fundamental rights, either by act or omission, will be punished according to the terms of the Law"

"Nenhuma criança ou adolescente será objeto de qualquer forma de negligência, discriminação, exploração, violência, crueldade e opressão, punido na forma da lei qualquer atentado, por ação ou omissão, aos seus direitos fundamentais".

Article 106 of the Statute stipulates that:

"No child or adolescent should be deprived of his freedom, preceding to his/her arrest without evidence of flagrante delicto or when there is no written warrant issued by the proper judicial authority."

"Nenhum adolescente será privado de sua liberdade senão em flagrante de ato infracional ou por ordem escrita e fundamentada da autoridade judiciária competente."

The statute establishes that responsibility for the enforcement of the rights of children and adolescents will be shared by governmental and nongovernmental organizations at the federal, state and municipal level. It also provides for the creation of "municipal, state and national councils of child and adolescent rights" with the task of overseeing the enforcement of children and adolescents' rights and the provisions for their welfare. While the Statute sanctions a comprehensive set of children and adolescent's rights and appoints a number of bodies to enforce them, more than 18 months after the Statute was passed, most states and municipalities have not yet created the councils prescribed by the Statute and most of the provisions in the Statute have not been implemented.

In his state of the nation address on 22 June 1990 President Collor de Mello declared:

"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 live with or accept any form of disrespect for human rights."

On 12 October 1991 President Collor de Mello stated:

"We will be judged by what happens in our streets and squares, in the quarters of the periphery, in bus stations, in the traffic lights crossings, in every place that there may be abandoned children. The state of suffering and violence against children and adolescents is an affront against our civic values."

"Seremos julgados pelo que acontece em nossas ruas e praças, nos bairros das periferias, nas rodoviárias, nos sinais de trânsito, em todo lugar onde possa haver crianças abandonadas. O estado de sofrimento e violência contra as crianças e adolescentes afronta o nosso sentimento cívico."

c. Maria Luiza Carvalho

5. Mothers of murdered children participating in a demonstration against killing of street children in Baixada Fluminense, Rio de Janeiro. October 1991.

