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## المجلس الاقتصادي والاجتماعي



لجنة حقوق الإنسان

الدورة الستون

البند ١١ (ب) من جدول الأعمال المؤقت

الحقوق المدنية والسياسية، بما في ذلك مسائل

حالات الاختفاء والإعدام بإجراءات موجزة

حالات الإعدام خارج نطاق القضاء أو بإجراءات موجزة أو تعسفاً

تقرير المقررة الخاصة السيدة أسماء جاهانغير

إضافة

البعثة المضطلع بها إلى البرازيل\*

\* يُعمَّم موجز تقرير هذه البعثة بجميع اللغات الرسمية. ويرد التقرير نفسه في مرفق هذا الموجز ويُعمم باللغة التي قُدم بها فقط. والتذييل أيضاً يُعمَّم باللغة التي قُدم بها فقط.

## موجز

بدعوة من الحكومة، اضطلعت المقررة الخاصة ببعثة إلى البرازيل في الفترة من ١٦ أيلول/سبتمبر إلى ٨ تشرين الأول/أكتوبر ٢٠٠٣. وكان هدف الزيارة تمكين المقررة الخاصة من التحقيق على عين المكان في الادعاءات التي تلقتها خلال السنوات القليلة الماضية وتتصل بانتهاكات للحق في الحياة، بما يشمل حالات الإعدام خارج نطاق القضاء على أيدي الشرطة والوفاة أثناء الاحتجاز.

وزارت المقررة الخاصة أثناء بعثتها ست ولايات وتسع مدن. وعقدت اجتماعات مع عدد كبير من ممثلي الحكومة، بمن فيهم رئيس الجمهورية.

والتقت المقررة الخاصة، خلال كل زيارة من الزيارات التي أدتها إلى الولايات، بمسؤولين حكوميين، وممثلين عن الشرطة المدنية والعسكرية. كما عقدت اجتماعات مع مكاتب المدعين العامين فضلاً عن القضاة والمحامين. كما زارت في ساو باولو مركزين من مراكز احتجاز الأحداث.

وتقابلت المقررة الخاصة، طوال زيارتها، مع شهود ومع أفراد أسر ضحايا حالات الإعدام خارج نطاق القضاء. كما تلقت معلومات شفهية و/أو مكتوبة قدمتها إليها منظمات غير حكومية عديدة. وزارت المقررة الخاصة مدن الصفيح في إسبيريتو سانتو، وساو باولو وريور دي جانيرو.

وتلقت المقررة الخاصة أيضاً من المعلومات عن انتهاكات حقوق الإنسان التي ارتكبتها قوات الأمن، وبالخصوص الشرطة العسكرية في ظل الإفلات الكامل من العقاب. وتُطلع المقررة الخاصة الحكومة على حالات الانتهاكات تلك في تذييل هذا التقرير.

وتوصي المقررة الخاصة بتبسيط الإجراءات القانونية الجنائية في البرازيل دون المساس بالأصول القانونية، توخياً لوضع حد للإفلات من العقاب. ويحتاج الجهاز القضائي إلى إصلاحات جذرية لمعالجة التأخير والعمل المتراكم. وينبغي تعزيز مكاتب المدعين العامين. وينبغي أن تكون مؤسسات الطب الشرعي مستقلة وأن يشرف عليها أخصائيون لا ينتمون إلى جهاز الشرطة. وينبغي لمؤسسات إنفاذ القانون أن تطور تدريبها على حقوق الإنسان وتُحسن من أساليب اختيارها لأفراد قوات الشرطة. ويجب، بصفة مؤقتة، وقف عمل أفراد الشرطة المتهمين بارتكاب عمليات إعدام خارج نطاق القضاء في انتظار نهاية محاكمتهم. وينبغي للحكومة أن تُنشئ مصرف بيانات يتضمن معلومات عن انتهاكات حقوق الإنسان التي ارتكبتها أفراد من مؤسسات إنفاذ القانون. وينبغي للحكومة كفالة حماية أي شخص يتعرض لخطر الإعدام خارج نطاق القضاء، بما يشمل الأشخاص الذين يتلقون تهديدات بالقتل. وينبغي تعزيز موارد برامج حماية الشهود كما ينبغي تدقيق اختيار موظفي الشرطة العاملين في تلك البرامج. وتوصي المقررة الخاصة بقوة بأن يضطلع المقرر الخاص المعني باستقلال القضاة والمحامين ببعثة إلى البرازيل.

## Annex

### REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS, ASMA JAHANGIR, ON HER MISSION TO BRAZIL (16 September-8 October 2003)

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## **Introduction**

1. At the invitation of the Government, the Special Rapporteur conducted a mission to Brazil from 16 September to 8 October 2003. The visit was aimed at allowing the Special Rapporteur to investigate in situ allegations that she had received over the last few years relating to violations of the right to life, including extrajudicial executions by the police and deaths in custody. In addition, the Special Rapporteur also received reports of death threats to witnesses, family members of the victims of extrajudicial executions, and human rights activists.

2. The Special Rapporteur wishes to thank the Government of the Federative Republic of Brazil for its unprecedented cooperation before, during and after the mission. She also wishes to thank the federal and state authorities for extending their full support during her mission, thus making her task much easier. The Special Rapporteur notes with appreciation that the President of the Federative Republic of Brazil, Mr. Luiz Inácio Lula da Silva, took a personal interest in her mission and met with the Special Rapporteur at the end of her visit. The Special Rapporteur also expresses her gratitude to the United Nations Development Programme for providing invaluable support and assistance. She is also very grateful for the valuable assistance given by the numerous non-governmental organizations that played a crucial role in facilitating her visit.

3. The Special Rapporteur deeply deplores the killing of two witnesses she interviewed during her visit. One witness, Flavio Manoel Da Silva, whom she met in Itambé (State of Pernambuco), was killed on 27 September by unknown perpetrators after he had already survived one attempt on his life by a police officer. On 8 October, Gerson Jesus Bispo, who also provided information to the Special Rapporteur relating to the death of his brother, killed by a death squad allegedly linked to the police, was brutally assassinated in Santo Antonio de Jesus (State of Bahia). The Special Rapporteur expresses serious concerns over what could be considered as acts of reprisals and encourages the Government to take all necessary measures to protect victims and witnesses of human rights abuses, in conformity with agreed terms of reference for fact-finding missions by Special Rapporteurs.

4. The killing of Flavio Manoel Da Silva has triggered immediate reaction by the Government of Brazil, which offered to include all witnesses who spoke to the Special Rapporteur - and who agreed to it - in a witness-protection programme. An initial list of witnesses was subsequently submitted by the Special Rapporteur to the federal Government. In addition, during the Special Rapporteur's meeting with President Luiz Inácio Lula da Silva, the issue of protecting those under threat by law enforcement was discussed at length. The President was deeply concerned about it and directed that human rights defenders and witnesses under threat be given protection by the Federal Police.

### **I. PROGRAMME OF THE VISIT**

5. During her mission, the Special Rapporteur held meetings in Brasilia with the following officials and State institutions: the President of the Republic, the Special Secretary for Human Rights, the National Secretary for Public Security, the Federal Public Prosecutor, the National Secretary for Justice, the Head of the Federal Police, representatives of the Commission of Human Rights of the Federal House of Representatives, the Secretary-General of the Federal Supreme Court, the Minister of Justice and the Federal Prosecutor for the Rights of Citizens.

6. The Special Rapporteur first travelled to the State of Bahia. In Salvador da Bahia, she held meetings with the following authorities: the Governor, the State Public Prosecutor, the Head of the Military Police, the *Corregedor* (internal affairs division) of the Civil Police, the Head of the State Supreme Court, the Secretariat for Public Security, the Chief of Civil Police, the Secretary for Justice, the *Corregedor* of Military Police, and the State Public Defender. She also had the opportunity to visit the Salvador Forensic Institute. On 20 September, the Special Rapporteur travelled to Santo Antonio de Jesus (State of Bahia) and met with a public prosecutor.

7. The Special Rapporteur held meetings in Recife (Pernambuco) with the Governor, the Head of the Civil Police, the Head of the State Supreme Court, the State Public Prosecutor, the Secretary for Social Defence, the Secretary for Citizenship and Social Policies, the Department of Police for Children and Adolescents, the *Corregedor* for Civil Police and the Head of the Military Police. The Special Rapporteur also went to Itambé at the border with the State of Paraíba and had the opportunity to meet with a public prosecutor.

8. In Belém (Pará), the Special Rapporteur met with the Governor, the *Corregedor* of Civil Police as well as with the *Corregedor* of Military Police, the Secretary for Public Security, the Police Ombudsman, the Head of the Forensic Institute, the State Supreme Court, the Chief of Civil Police, and the Secretary for Social Defence. The Special Rapporteur also made a brief visit to an academy for police training. In Marabá, she met with a public prosecutor.

9. In São Paulo, the Special Rapporteur met with the Vice-Governor, the Head of the Forensic Institute, the Secretary for Penitentiary Administration, the Secretary for Public Security, the Head of the Civil Police, the Head of the Military Police, the *Corregedor* of Civil Police, the State Supreme Court, the State Public Prosecutor and the Police Ombudsman. She also had the opportunity to briefly meet with the Police Ombudsman of Minas Gerais.

10. The Special Rapporteur went to Vitória (Espírito Santo) where she held meetings with the Governor, the Head of the Civil Police, the Head of the Military Police, the State Public Defender, the State Public Prosecutor, the Head of the Supreme Court and the Head of a Jury Court. The Special Rapporteur also met with the House of Representatives' Sub-Commission of Inquiry investigating death squads.

11. In Rio de Janeiro, the Special Rapporteur met with the Deputy Governor, the Head of the State Supreme Court, a judge at a first-instance military court, the Head of the Civil Police, the Secretary for Penitentiary Administration, the State Public Prosecutor, the Secretary for Public Safety, the Police Ombudsman, the *Corregedor* of Civil Police, the *Corregedor* of Military Police and the Head of the Military Police.

12. Throughout her visit, the Special Rapporteur also met in private with witnesses and family members of victims of extrajudicial executions.<sup>1</sup> She also received verbal and/or written information from numerous non-governmental organizations (NGOs), including the following main ones: Global Justice, the National Forum of Entities, *Grupo Tortura Nunca Mais*, the Office for Judicial Assistance to Popular Organizations (GAJOP), the *Sociedade Paraense de Defesa de Direitos Humanos*, the Land Pastoral Commission, the Forum Reage Espírito Santo, CEJIL, and the *Núcleo de Direitos Humanos*. The Special Rapporteur visited the shanty towns of Serra in Espírito Santo, Guarulhos in São Paulo, Jacarezinho and Borel in Rio de Janeiro.

## **II. GENERAL OBSERVATIONS**

### **A. Purpose of the visit**

13. During the course of the past few years, the Special Rapporteur had received reports from various sources contending that extrajudicial executions by death squads, allegedly involving the military police, or killings as a result of excessive use of force by police were being carried out with impunity throughout Brazil. She also received information indicating that threats to witnesses, family members of victims of extrajudicial executions, human rights activists, indigenous leaders, and members of the judiciary, allegedly committed by the police, were routine. She addressed a number of communications to the Government seeking to clarify these allegations. By letter dated 26 September 2001, the Government invited the Special Rapporteur to carry out a mission to Brazil. Based on the information she received, the Special Rapporteur decided to visit six states in addition to the Federal District of Brasilia, to assess the situation of human rights pertinent to her mandate and to verify the various allegations of violations to the right to life in Brazil.

14. Thanks to the full cooperation of the Government of Brazil, the Special Rapporteur was able to complete her visit in a climate of total transparency. The visit was widely covered by the media and it appeared that there was growing concern and awareness about the issues covered by the Special Rapporteur's mandate. Witnesses who wished to be interviewed by the Special Rapporteur were also always provided with full confidentiality.

### **B. An overall picture**

15. Brazil is a federative republic composed of 26 states and one Federal District, stretching over 8,547,403 square km. Its population is estimated at 177 million inhabitants and is mostly concentrated in the eastern part of the country adjacent or close to the Atlantic Ocean while the hinterland is more sparsely settled. Brazil is today South America's leading economic power with, however, 22 per cent of the population living below the poverty line. Following three centuries under the rule of Portugal, Brazil became an independent nation in 1822. In the twentieth century Brazil made the transition from more than 20 years of military intervention in the governance of the country to build a modern democracy. Its Constitution adopted in 1988 is the basic framework which institutionalizes human rights in Brazil. In the 1990s, President Fernando Henrique Cardoso adopted a comprehensive national policy for the promotion of human rights which included the ratification of most key international and regional human rights treaties. Gradually the policy advanced under subsequent Governments. The entry in function of President Luiz Inácio da Silva at the beginning of 2003 has given a new impetus to the Government's commitment to human rights, with a particular emphasis on economic and social rights.

### **C. The Federation and the states: division of jurisdiction**

16. The Federative Republic of Brazil is composed of 26 states and a Federal District, its capital.<sup>2</sup> The Constitution of the Federative Republic of Brazil (1988) lays down the basic framework under which the federation works. States enjoy a high degree of autonomy and elect their respective executive branch (Governor and Vice-Governor), legislature and constitute the state judiciary. The states are organized and governed by their own constitution and they may

adopt laws in accordance with the principles of the Constitution of the Federative Republic of Brazil (1988), but may also exercise all powers not prohibited to the states by the Federal Constitution.

17. The Federal Constitution defines a set of administrative and legislative powers for the Union as well as the cities. It also lists concurrent jurisdictions between the Union, the states, the Federal District and the cities, or between the Union, the states and the Federal District. At the same time, all residuary powers which are not “prohibited” may also be exercised by the states. In some situations and areas the harmonization of powers between the Union and the states poses difficulties. It places a strain on governance and the eventual responsibility between the Union or the state is difficult to identify. For example, prisons are run by the states but, in a very few instances, the federal Government has maintained its own space within a state prison. In such situations there remains a confusion of responsibility between the representatives of the Union and the state in cases of human rights violations, such as deaths in custody.

18. A number of issues of governance stem from the overlapping or lack of clarity between the powers of the Union and the states. For example, prisons are run by the states but in very few instances, the federal Government has maintained its own space within a state prison. There is a confusion of responsibility in case of violation of rights of federal prisoners within the state prison.

19. The federal Government maintains relations with foreign States and participates in international organizations. All reporting on human rights issues to international and inter-governmental bodies is undertaken by the Federation. At the same time, a number of human rights violations may fall within the competence of the states. One example is extrajudicial, arbitrary or summary executions carried out by the military or civil police.

## **D. Law enforcement**

### **1. Federal, civil and military police**

20. The police in Brazil are organized primarily at the state level. Although Brazil has a federal police force, as well as specialized federal police authorities for highways, railways, and ports of entry, the Constitution of Brazil assigns the majority of responsibility for criminal activity to state police forces. The federal police, which are relatively small, covers federal crimes such as terrorism, organized crime, federal fiscal crimes, border and immigration control, responsibility over indigenous peoples. The state police are divided into two nearly autonomous entities, the civilian and military police. Both forces are under the control of the state Governor. The military police is a uniformed force that patrols the streets, maintains public order, and may arrest suspects caught in the act of committing a crime or pursuant to an arrest warrant issued by a judge. According to the information received by the Special Rapporteur, the military police who were set up during the military dictatorship are said to have retained their traditional military-style training, based on the principle of combating an “enemy”. The civil police exercise the functions of criminal police and investigate criminal offences, with the exceptions of the military ones. The civil police are authorized to perform investigations, and in practice, oversee the operation of precincts. Each precinct is run by a precinct chief (*delegado*), who by law, must hold a law degree. Thus the military police respond to crimes while they are in progress, while the civil police respond to crimes once they have occurred.

21. The Special Rapporteur noted the unanimous view that all branches of the police - federal, military and civil - were corrupt. Each one is accused of excesses and is reported to have carried out extrajudicial and summary executions. At the same time it was the collective opinion - backed by ample information - that the military police had by far the worst record in violating human rights and perpetrating extrajudicial and summary executions.

## **2. Internal oversight offices (*Corregedorias*)**

22. Each police force is monitored by its own internal affairs division (*corregedoria*). There is generally one internal affairs division per force, e.g. one for civil and one for military police. In Rio de Janeiro, Pernambuco and Pará, there exists one unified *corregedoria* placed under the State Secretariat for Social Defense or Public Security to oversee them both, reportedly to ensure their independence from the police. *Corregedorias* are in charge of administrative investigation of police misconduct, including executions. Once an investigation is concluded, the internal affairs division can either archive the case, if the allegations are unsubstantiated, propose disciplinary sanctions including reprimands or suspensions, recommend to the approval of the state Governor the dismissal of police officers or send the matter to the public prosecutor for investigation and trial. According to the information received by the Special Rapporteur, cases involving military police officers are said to be dealt with reluctantly by *corregedores* as they are themselves subordinated to the chain of military command, or are bound by a strong feeling of esprit de corps. *Corregedorias* usually wait for the courts to convict police officers before applying their administrative sanction. As a result, notoriously abusive policemen continue to hold their position. This practice tends to undermine legitimate efforts to dismiss abusive police officers and can contribute to creating a climate of impunity.

## **3. Police ombudsman (*ouvidorias de policia*)**

23. There are currently eight ombudsmen, or *ouvidorias de policia*, working under the jurisdiction of the State Secretaries for Public Security of São Paulo, Rio de Janeiro, Pará, Minas Gerais, Rio Grande do Sul, Paraná, Ceará and Rio Grande do Norte. They were established as part of the 1996 governmental National Human Rights Programme, as an additional oversight body to monitor police behaviour. The Special Rapporteur met with the ombudsmen of Pará, São Paulo, Rio de Janeiro and Minas Gerais. Ombudsmen are in charge of transmitting to the *corregedorias* all denunciations of police misconduct they receive. They are also supposed to follow the steps taken by the *corregedoria* itself and, if need be, by the prosecutor's office. Ombudsmen may refer a case directly to the Public Prosecutor's office when there is sufficient evidence, even if the police or the *corregedorias* have previously filed the case away. Although by law the ombudsmen are said to have full autonomy to exercise his or her functions, they are subordinated to the State Secretariat for Public Security. The accomplishments of police ombudsmen may vary dramatically from one state to another and are dependent on many factors such as the ombudsmen's dynamism itself, good working relations with police counterparts, the independence of advisory staff, financial means, outside political pressure, the existence of intimidation or threats, or the length of their tenure. In Belém, the Special Rapporteur found that the ombudsman had acquired certain credibility and seemed to work effectively and in harmony with police officials. She was nevertheless not satisfied with the follow-up of cases sent by her to the public prosecutor or the internal oversight. In Rio de Janeiro, though, there seemed to be little interest in the ombudsman's work.



#### **4. Forensic Medical Institutes (Instituto Medico-Legal, IMLs)**

24. Forensic Medical Institutes (IML) are responsible for all forensic investigations, including those involving police killings. The Special Rapporteur was able to visit an IML in Bahia, Belém and São Paulo. Most IMLs are subordinated to the Secretariat for Public Security which controls the police. Reports by NGO sources and public prosecutors indicate that, as a result of this lack of independence, medical examinations, including autopsies, are not often carried out with sufficient detail, particularly in cases of police use of deadly force against civilians. In this connection, the Special Rapporteur wishes to welcome the establishment of an independent IML in Belém, which is able to carry out its examinations independently despite reported strong pressure by the police to regain control over this body. In addition to their lack of independence, IMLs do not have sufficient financial, technical and human resources, which hampers diligent investigation and prosecution of cases of police abuses.

#### **E. The public prosecutor's office**

25. The public prosecutor's office has the duty to oversee prosecutions of all defendants. Article 129 of the federal Constitution provides that the public prosecutor is exclusively responsible for undertaking public criminal action; assuring effective respect by the Government branches and by services of public relevance for the rights ensured under the Constitution; exercising external control over police activities; requesting investigations procedures and the institution of police investigations and indicating the legal grounds of its procedural acts. Many public prosecutors who spoke to the Special Rapporteur explained that, by constitutional law, they have the power to proceed with an independent criminal investigation, regardless of the pre-existence of a police inquiry. Thus, if they possess sufficient prima facie evidence (which they can gather for example through a civil or administrative inquiry), they can indict law-enforcement officials involved in criminal activities. Although this interpretation seems widely shared by the public prosecutors met by the Special Rapporteur, it has been consistently challenged in court by the police who want to keep their prerogative. According to the information received by the Special Rapporteur from various governmental sources, this issue is still very controversial and it is currently being examined by the Federal Supreme Court. Nevertheless, the Special Rapporteur was informed that there is not, as yet, a consolidated jurisprudence on this matter.

26. In discussions with public prosecutors, it however appeared that their financial and human resources are highly insufficient to carry out independent criminal investigations. While the Special Rapporteur welcomes the establishment within some public prosecutor's office of a unit specializing on the prosecution of human rights violations by agents of the State, the Special Rapporteur is concerned that overall, public prosecutors keep very few statistics relating to inquiries into human rights violations by police officers. Finally, she noted that the relatively short tenure - two years - of the head of the public prosecutor's office might also have an impact on his/her effectiveness.

27. The Special Rapporteur was impressed by some public prosecutors she met. They were courageously fulfilling their responsibilities and were able to gain public confidence. They did complain of lack of support from the administration and were frustrated by the painfully slow system of justice. In some instances public prosecutors played a key role in bringing members of

the law enforcement to justice and to expose the identity of members of death squads. But overall there was widespread complaints against public prosecutors, who were found reluctant to file cases against the police accused of extrajudicial killings.

### **F. The judiciary**

28. The federal Constitution (art. 92) provides that the bodies of the judicial power are the Federal Supreme Court, the High Court of Justice, the Federal Regional Courts and the federal one-judge courts. Judicial power is also vested in tribunal and courts specializing in labour, electoral and military matters, although they hold an autonomous structure. The tribunals and one-judge courts of the various states and the Federal District also form part of the judiciary.

29. The federated states have the authority to organize their justice systems, provided that they respect the principles set forth in the federal Constitution. The purviews of the courts and the state judges are set forth in the states' constitutions, and the law on judicial organization is handed down by the court of justice. The federal Constitution guarantees the organizational and administrative autonomy of the courts. It includes the power to structure and determine the operations of their organs, as well as financial autonomy, including the ability to draw up their own budgets.

30. Military courts at the federal level are composed of a Superior Military Court and military courts and judges instituted by law. The Superior Military Court is composed of 15 life justices, appointed by the President of the Republic, after nomination has been approved by the Federal Senate. Ten judges are active-service military and five are civilians. The military courts have the competence to carry out legal proceedings and trials of the military, as defined by law. On proposal of the Court of Justice, a state law may create the state military justice, in those states in which the military police troops number more than 20,000 members. The State Military Courts also are competent to initiate legal proceedings and trials of military policemen and firemen for the military crimes defined in law. Crimes committed by military police and firemen are judged in the last instance by the respective State Supreme Courts, except in São Paulo, Minas Gerais and Rio Grande do Sul, where military courts of appeal exist.

31. Reports from NGO sources and information gathered by the Special Rapporteur during her mission indicate that the judicial system is considered to contribute to impunity, an issue analysed at length in a section below. During her visit, the Special Rapporteur has received disturbing reports of threats and intimidation of judges. In Santo Antonio de Jesus, the Special Rapporteur was deeply dismayed by the testimony of a neighbouring first district judge who reported several attempts against her life in 2001 by heavily armed and hooded police officers who allegedly tried to silence her as she was looking into homicides by death squads involving the police. In one instance, she explained that she was called to a prison by a police lieutenant who locked her up in a cell with some 130 inmates. The judge allegedly publicly denounced these barbaric acts to the National Council of Defence of the Rights of the Human Being and was charged for libel by the General State Public Prosecutor. The judge further explained that although she was able to report in detail these incidents to the police more than two years ago, there had never been any charge brought against the alleged perpetrators whom she could identify.

32. Tragically, the Special Rapporteur also heard accounts of killings of judges. On 15 March 2003, Judge Antônio José Machado Dias, 48, was shot in the chest and head by two gunmen as he drove home. According to the information received, Judge Machado Dias had been responsible for overseeing the operations of the high-security prisons where Brazil's top organized crime bosses are being detained. This murder is reportedly linked to the recent crime wave in Rio de Janeiro by drug cartels. Judge Machado Dias may have been murdered in retaliation for restricting the prison privileges of Luiz Fernando da Costa, the incarcerated leader of the feared Red Command drug cartel. These incidents alone reveal the serious dysfunction of the judiciary and the difficulties encountered by those who, with great dedication, want to continue their work in upholding the rule of law.

33. In her discussions with civil society as well as with some judges, the Special Rapporteur detected great concerns about the lack of resources and trained staff granted to the judiciary, which often entails a huge backlog of cases and undermines confidence of normal citizens in the justice system. The Special Rapporteur also heard complaints that jury members were approached - mainly in small urban towns. Victims' families reported unending adjournments and reported bias amongst trial judges who made remarks in open court supporting killings by police of "criminal elements". The Special Rapporteur was told by at least two public prosecutors of incidents where case files have disappeared from courts.

### **III. ALLEGATIONS OF VIOLATIONS OF THE RIGHT TO LIFE**

#### **A. Deaths due to excessive use of force and extrajudicial killings attributed to law-enforcement officials**

34. Throughout her visit, the Special Rapporteur heard numerous accounts of killings by members of the police in situations alleging excessive use of force or extrajudicial executions. These reports, gathered from a variety of sources, have been compiled by the Special Rapporteur and summarized in an appendix to this report. Although the use of deadly police violence against civilians in Brazil is rife, there is no up-to-date, comprehensive official disaggregated data on police lethality. In general, the figures provided to the Special Rapporteur from various sources (including the states and the federal Government) did not match each other but indicated an alarmingly high rate of police killings. According to official and NGO sources, there are approximately 45,000 to 50,000 homicides perpetrated every year in Brazil. For the years 2000 and 2001, the Special Secretariat for Human Rights, which was able to gather information from six states, namely Pará, Bahia, the Federal District, Rio de Janeiro, São Paulo and Rio Grande do Sul, reported a total of 3,017 civilians killed by the military and civil police on and off duty. Among these, 1,126 persons were killed by on-duty military police (often explained away as killing during encounters and armed confrontation), while 186 were killed by the civilian police. Off-duty military and civil police were allegedly responsible for the remaining 1,705 killings.

35. The figures provided by the National Human Rights Movement (MNDH, a nationwide Brazilian NGO) are well below the official figures as the information collected is limited only to the killings reported in main newspapers, thereby leaving out the majority of cases of police homicides which never get media attention. Nevertheless, they give an indication of the extent of the problem of deaths due to excessive use of force or extrajudicial killings. During 2000 and 2001, MNDH reported a total of 25,542 homicides in Brazil. Of these, 770 deaths were

imputed to on-duty police forces, while 834 cases were allegedly caused by death squads or off duty police. Overall, MNDH indicates that the rate of police lethal violence is particularly high in the largest urban centres of the southeastern regions of Brazil, which generally suffer from an extreme level of urban criminality.

36. The Special Rapporteur is aware that police violence is by no means limited to these areas and that it also affects other states throughout the country. In different regions, the targets of these killings may vary: landless peasants or indigenous leaders in rural areas in the context of land conflict, youngsters from disadvantaged homes caught in police anti-drug operations or in reprisal for killing of police officers, human rights activists who are silenced. Overall, victims usually tend to be young Afro-Brazilian males between 15 and 19 years of age, sometimes involved in criminal gangs and dwelling in the poorest communities. The Special Rapporteur was appalled, after talking with relatives and representatives of those who died, by the overall situation of the population living in the *favelas*<sup>3</sup> where innocent citizens are trapped in a cycle of violence fostered by heavily armed drug gangs or indiscriminate repressive police operations, with few resorts, if any, to seek protection. This acute situation can only result in record numbers of deaths at police hands. The Special Rapporteur noted a dangerous recent upward spiral in the number of civilians killed by the state's military police in both Rio de Janeiro and São Paulo. Police homicides often take place in the course of massive raids into *favelas* mainly designed to apprehend criminal suspects or carry out preventive sweeps. In the course of these raids, the police, who often lack the training and the means to properly carry out these operations, have repeatedly engaged in unjustified fatal shootings of criminal suspects or local inhabitants. There are also a number of reports where police have simply used violence and killed young people living in *favelas* without any provocation.

37. The Special Rapporteur was informed that in March 2002, 100 members of a special intelligence unit within the São Paulo military police, known as GRADI, originally created to investigate hate crimes, killed 12 suspected criminal gang members travelling in a bus on the Castelinho highway, in an alleged shoot-out during a police operation. The Special Rapporteur received allegations that independent forensic examinations of the victims suggested that many had been extrajudicially executed.

38. While visiting the community of Borel, in the north of Rio de Janeiro, the Special Rapporteur heard testimonies indicating that in April 2003, four young men were shot dead in an alleged anti-drug operation carried out by military police. The initial police version of events claimed that the four men were drug traffickers killed in a shoot-out. This version was reportedly soon discredited by official autopsies which demonstrated no evidence that there had been an exchange of fire.

39. According to figures supplied by the State Secretariat for Public Security, 521 civilians were reportedly killed in confrontations with the police in greater Rio de Janeiro alone during the first five months of 2003, in comparison with a total of 900 in the whole Rio State throughout 2002. During these five months, 22 police were killed while on duty in the city of Rio de Janeiro. Similarly, the Police Ombudsman of São Paulo reported that between January and May 2003, the police were responsible for the death of 464 persons while there were a total of 574 homicides by police forces in 2002. During the same period in 2003, 57 police officers were killed, 43 being off duty while 14 were in service.

40. A closer analysis reveals that police killings are often poorly disguised extrajudicial executions. According to a police ombudsman and NGOs met by the Special Rapporteur, police reports often state that the victim has been killed in an exchange of fire after resisting arrest. Invariably, the police use a standardized “resisting-arrest form” (*auto de resistencia*) which presents accounts of lawful police response to the unlawful use of deadly force by the victims, thereby shifting responsibility from the police to the deceased. Nevertheless, forensic reports and witness accounts generally show that the lethal shots had been fired from behind and at close range, in circumstances suggesting that the person was a victim of an extrajudicial execution. The Special Rapporteur was also able to identify other types of cases of police violence. She heard accounts suggesting that police resorted to extremely excessive force to respond to potentially criminal, though not in life-threatening situations. She also gathered testimonies indicating that police kill while off duty, either to resolve personal vendettas or in response to some minor provocation or inconvenience. Finally, she also heard worrisome reports of victims disappearing after being kidnapped by the police.

41. A further cause of concern for the Special Rapporteur is the fact that this increase in police lethality seems to be condoned by a section of public opinion and taken over by State authorities which considers it as being a necessary and unavoidable product of crime control. The Special Rapporteur also deplores that a legacy of violence inherited from the Brazilian military dictatorship continues to shape the prevailing ethos of certain divisions of the military police. She regrets that some members of the police exploit the overall climate of violence in order to deliver rough and easy justice to those that they consider socially “undesirable”.

### **B. Death squads**

42. Witnesses met by the Special Rapporteur gave horrifying accounts of groups of armed men in civilian clothes, operating under hoods, using sophisticated rifles and carrying out random killings of innocent civilians. Dead bodies are found mutilated, with heads severed, ears and organs cut off while corpses are left to rot. A number of such killings are attributed to groups of people described as death squads. With few exceptions, many high-ranking officials met by the Special Rapporteur acknowledged the fact that many death squads had ties with State police. By their criminal activities, which benefit from the collusion or active participation of law enforcement agencies, they contribute to creating a pervasive climate of insecurity characterized by a very high level of homicides. While visiting Santo Antonio de Jesus (in Bahia), and Itambe (in Pernambuco), the Special Rapporteur was able to feel the terror generated by these extermination groups among the population, members of the State legislative assembly, as well as among prosecutors, human rights defenders or members of the judiciary.

43. Death squads are said to be a legacy of the Brazilian military dictatorship where their primary functions were to silence opponents to the military regime. Information received by the Special Rapporteur indicate that, today, they are made up of well organized and heavily armed criminal gangs, composed of ordinary criminals as well as off-duty or former police officers. They mainly tend to operate in areas with little State presence and specialize in drug trafficking or various criminal activities, for example, extortion. Some groups may have little in common with organized crimes and may be made up of off-duty police officers willing to make extra money working as security guards for small businessmen afraid of robberies who, in the absence of a reliable State police, have taken upon themselves to ensure their own protection.

44. The motives of such killings by death squads are not always clear but the Special Rapporteur was able to identify some patterns. In Santo Antonio de Jesus, she heard numerous reports of killings and disappearances of youngsters perpetrated by a military police nicknamed “Pomponet” who, with the alleged support of influential residents, took it upon himself to “socially cleanse” the area. In Maraba, in the State of Pará, the Special Rapporteur received information according to which a police inspector nicknamed “Robocop” was heading a death squad whose objective was to shoot on sight any burglar. In San Geraldo do Araguaia in the State of Pará, a landowner who failed to obtain an eviction order from a judge, hired seven police officers to evict a landless group of rural workers who had invaded his property. One person was killed as a result of this operation.

45. The situation in the coastal State of Espirito Santo is a particularly striking example of penetration of death squad activities into the highest levels of the legislative, judicial and executive branches of a state. In 1964, *Scuderie Detetive Le Cocq* (“Shield of Detective le Cocq”, or SDLC), was founded in honour of a murdered detective. By early 1990s the organization had more than 3,800 members, composed mainly of members of the civil and military police. It was known to operate freely, engaging in death-squad activity as well as organized crime and carrying out a terror campaign affecting all segments of society. The Special Rapporteur is aware that over the last 10 years several investigations of these death squads have been carried out, notably by a special commission made of public prosecutors, civil and military police, which concluded that in addition to police officers, SDLC included politicians, businessmen, various Government officials, lawyers, judges, members of the Public Prosecutor’s Office and hired gunmen.

46. Invariably, members of this investigative commission have been subject to serious death threats. One of them, Francisco Badenes, the head of the civil police at that time, had to be relocated. Tragically, human rights lawyer Joaquim Marcelo Denadai was killed on 15 April 2002 after he openly accused SDLC of being responsible for several killings. The Special Rapporteur takes note that this murder has triggered in 2002 the creation by the federal Government of a joint federal and state police task force to investigate human rights violations perpetrated by SDLC. Nevertheless, on 25 March 2003, Judge Alexandre Martins de Castro Filho who was presiding over many cases against members of SDLC, was brutally murdered after having received repeated death threats in the past.

47. The Special Rapporteur was also made aware of numerous death threats against human rights defenders by members of the prominent organization *Forum Reage Espirito Santo*. Finally, the Special Rapporteur was informed that despite the intervention in 1996 of the federal Office of the Public Prosecutor to file a suit in the Federal District Court in Espirito Santo to dissolve SDLC, a final court decision has so far not been reached on this matter. Thus, it remains a legally constituted organization, with an identified address.

### **C. Deaths in custody**

48. In the last few years, the Special Rapporteur has received information regarding allegations of deaths in custody in Brazilian prisons to which she brought to the attention of the Government of Brazil. She submitted a communication relating to the death of 27 inmates massacred by other prisoners on 1 January 2002 in Urso Blanco prison, Porto Velho,

Rondonia State, during a transfer of detainees. In March 2001, she sent an urgent appeal relating to juvenile detainees who were reported to be at risk of reprisals by guards and police officers following an earlier riot within a Franco Da Rocha detention centre.

49. The Special Rapporteur was also informed that, since the beginning of 2003, eight adolescents detained in São Paulo minors internment units were reportedly killed by other inmates. Although the exact circumstances of these deaths were not communicated to the Special Rapporteur, interviews with relatives of the deceased revealed that these killings could most likely have been avoided by timely intervention of the prisons' authorities.

50. The Special Rapporteur decided to give the issue her full attention and asked to visit an institution for minors where problems were believed to be acute. She initially requested to go to the *Unidade de Atendimento Inicial* of Bras, commonly referred to as UAI, where all juvenile offenders are initially taken for screening before being transferred to a minors' internment unit under the jurisdiction of the State Foundation for the Well-Being of Minors (*Fundacao Estadual para o Bem Estar do Menor*, FEBEM). Conditions of detention in this unit, in particular with respect to overcrowding, were said to be inhuman. At first, the president of this institution denied access to the Special Rapporteur, officially due to some restructuring. The Special Rapporteur brought this matter to the attention of the São Paulo Vice-Governor who permitted access to the Bras unit and also recommended that she visit a model unit, namely the *Unidade de Pirituba* in the outskirts of São Paulo.

51. In the first "model unit", a new, nicely built complex where 84 adolescents sentenced from six months to three years' imprisonment were detained, the Special Rapporteur had to insist strongly on speaking in private to the detainees; the president of the FEBEM institution officially protested against this requirement. Indeed, the Special Rapporteur believed that his presence would not have allowed the children to speak openly to her. The Special Rapporteur was worried to observe that, despite the overall good conditions of detention, including the provision of educational training, the children she interviewed reported that violence towards them was an everyday practice. She also noted that the adolescents seemed terrified that there would be reprisals against them after she left. She brought these concerns to the attention of the Vice-Governor.

52. Conditions of detention at the *Unidade de Atendimento Inicial* were extremely basic: hundreds of adolescents were locked-up all day long in cells a few square metres wide, sitting in silence in line on the bare concrete floor and maintained in a state of complete inactivity. Similarly, all children complained of being subject to routine violence, some of them still bearing the signs of recent beatings. Overall, some 75 per cent of those interviewed by the Special Rapporteur reported having been eyewitnesses of extrajudicial killings by the police. It was important to interview child detainees on the situation of extrajudicial killings, as a number of children have been victims to this crime and institutionalized children have directly been in contact with law-enforcement agents. A very basic interview with these children confirmed the impression and information that young people are specifically targeted by the police resulting in a number of extrajudicial killings.

53. The issue of deaths within detention facilities for adults also held the Special Rapporteur's attention, especially in São Paulo and Rio de Janeiro, where half of the Brazil penitentiary population is concentrated. Figures provided by the São Paulo Secretariat for

Penitentiary Administration indicate a decrease in casualties over the last five years, with 16 deaths in 2003, 97 in 2002, 48 in 2001, 48 in 2000 and 117 in 1999. In Rio de Janeiro, the Secretariat for Penitentiary Administration reported a similar trend, with 19 deaths in custody in 2003, 42 in 2002, and 32 in 2001. The Special Rapporteur is fully aware and encouraged that the Government is putting all its efforts into reforming the prison system. Nevertheless, she believes that any violent death in prison is to be deplored and fully investigated and that there is still room for reform. She was particularly shocked by the recent death of a Brazilian of Chinese origin, Mr. Chan, imprisoned for a federal offence in a state prison in Rio de Janeiro, after he was savagely assaulted by inmates and wardens. Two parallel investigations by federal and state authorities were carried out and charges were eventually brought against 12 persons, including prisons wardens.

54. The Special Rapporteur believes that, in many similar cases, the key issue remains one of a political culture which encourages humane behaviour amongst agents of the State. While she encourages the recruitment of new prison wardens, she wishes to express her concerns with regard to the recruitment by the Secretariat for Penitentiary Administration in Rio de Janeiro of former police officers as prison wardens. Additional measures, such as the provision of a revised comprehensive human rights training for new recruits, might also contribute to improving the overall situation within prison facilities. Overall, judicial or other inquiries into death in custody are superficially carried out, which do not satisfy family members of the deceased and have been criticized by independent monitors.

#### **D. Impunity**

55. While seeking justice is always a long and rigorous pursuit, the Special Rapporteur observes that, in instances where the perpetrators of serious human rights violations, including extrajudicial killings, have acquired influence or power, this may become extremely difficult and even at times dangerous. According to the National Secretary for Public Security, only 7.8 per cent of the approximate 49,000 deliberate homicides committed in Brazil every year are investigated and prosecuted with success. These figures alone reveal the failure of the State to exercise due diligence in carrying out justice. The Special Rapporteur is concerned that this situation enables perpetrators to continue to commit grave human rights violations, including extrajudicial executions, in the knowledge that their crimes will not result in investigation or criminal prosecution.

56. The Special Rapporteur observed that ordinary citizens seeking justice in Brazil are faced with immense difficulties, from the time of filing a complaint to the obtaining of compensation which they only obtain after all legal remedies are exhausted. As this usually takes years, families of victims lose interest in pursuing it. Relatives of victims of extrajudicial executions as well as representatives of the civil society have conveyed to the Special Rapporteur their feelings of fear and helplessness generated by systematic impunity. Mothers of victims have told how they have been jeered at, humiliated and insulted by policemen when they have tried to make a complaint against police abuses. Similarly, members of marginalized communities or inhabitants of remote rural areas, where many extrajudicial killings occur, have complained of a lack of contact with trustworthy State representatives to whom they can report these incidents in safety.



57. The Special Rapporteur believes that the problem of impunity is the result of the combined failure of a number of Brazilian institutions. The current practice, which favours police investigation into their own crimes over the intervention of the public prosecutor's office, is perhaps the single factor that most facilitates impunity. Indeed, the fact that the public prosecutors' offices cannot investigate credible allegations of police violence without having to rely on the police allows a number of flaws into the investigation procedure. The Special Rapporteur heard numerous reports of cover-up by those involved in shootings. Crime scenes are allegedly tampered with. "Resisting-arrest forms", designed for instances in which individuals resist lawful arrest orders, are immediately completed, thereby shifting responsibility from the police to the deceased. Police are also said to take their victims to hospitals to receive "first aid", a practice which undermines investigation of the crime scene, while promoting the appearance of police concern for the well-being of the victims. Coroners' offices, usually subordinated to the Secretariats for Public Security, often do not carry out medical examinations with sufficient detail. Thus, comparison between police and coroners' reports becomes ineffective.

58. The Special Rapporteur noted with concern that the time limits established by law for the completion of the inquiry are virtually never met - whether intentionally or not - which renders successful prosecution extremely difficult. Indeed, under Brazilian law, delays in prosecuting are hit by the statute of limitations. This time bar varies according to the severity of the crime. Since the passage of time benefits the accused, it becomes easy for those who know the justice system to delay procedural steps by multiplying appeals, thereby guaranteeing impunity for the accused. A couple of public prosecutors gave examples in which accused police officers were able to delay trial for 20 years, thus benefiting from the statute of limitations.

59. A further cause of concern to the Special Rapporteur is that the military justice system is administered in such a way as to make convictions of policemen for violent crimes against civilians almost impossible. Indeed, article 125 of the Constitution grants the military courts jurisdiction over military police for military crimes as defined in law, that is "those committed by military personnel who even if not on duty, use military weaponry or any warlike material to carry out illegal acts" (article 19 of the 1969 Military Criminal Code). In 1996 a new law, No. 9299 modified the Military Criminal Code and granted the civilian judiciary the power to judge only cases of "intentional" crimes against life. However, this legislation left intact the rest of the jurisdiction of the military justice system with regard to the military police. Thus, all crimes less serious than "intentional" murder committed by military police against civilians - including manslaughter - remain under the jurisdiction of the military justice system. The Special Rapporteur also regrets that the initial determination of whether a killing may be characterized as "intentional" or not remains largely in the hands of the military police investigators, thereby shielding the accused from criminal investigation and prosecution.

60. The Special Rapporteur received allegations indicating that the judiciary itself bears some responsibility for the impunity enjoyed by one police officer responsible for using deadly force against civilians. This is particularly true in the military courts where justice is not properly administered, as a result of a strong esprit de corps. Thus, in some instances, even when all other obstacles have been overcome, judicial biases favouring police who use violence foster impunity. However, this inclination is not confined to military courts alone. A particularly striking example is the case of Colonel Ubiratan Guimaraes, who led the military assault on the São Paulo Carandiru prison in 1992, which resulted in the death of 111 inmates. He was

reportedly convicted of co-responsibility for simple homicide of 102 detainees, and five counts of attempted homicide. According to the information received by the Special Rapporteur, Colonel Guimaraes, who was sentenced to 632 years in prison, has not been imprisoned, pending an appeal against his conviction. It is also worth mentioning that, under Brazilian law, defendants sentenced for longer than 20 years for the offence of intentional murder have an automatic legal right to a retrial. The legal requirement adds to delays and a second trial suffers on account of it. Thus, witnesses are lost and memories fade.

61. The Special Rapporteur was informed that, in some instances, judges are believed to be subject to pressure from local politicians or influential economic actors such as landowners. Similarly, jury members in first-instance courts are said to be subject to threats and intimidation whenever they are presented with a case of police homicide. The Special Rapporteur notes that, in the 1996 Eldorado dos Carajas massacre, two commanding officers responsible for the killing of 19 landless peasants who were peacefully demonstrating to petition their land rights were convicted to 228 and 158-year sentences respectively. However, they were never arrested, as they found ways to appeal their sentences while free. As for the third commanding officer charged in the case, he was reportedly acquitted. The tribunal absolved nine police sergeants and another 126 military police officers, ruling that they only “fired their weapons into the air” and not at peasants. Finally, the government officials with alleged political responsibility for the institution which carried out the massacre, namely the Governor of Para and the general commander of the military police at that time, were reportedly not prosecuted for the massacre.

62. The Special Rapporteur notes with concern that, since appeals have a suspensive effect over sentences, police officers responsible for extrajudicial killings tend to remain at liberty and often on duty although convicted for murders. In such situations, the accused has an unfair influence over the proceedings, witnesses are often intimidated, and evidence can be tampered with by the police. The law allows judges discretionary powers to suspend sentence on appeal if the convict is a first-time offender and has a good personal record. The general rule on appeal is that the offender either remains in prison or is released on bail. In the case of police offenders, it was reported to the Special Rapporteur that courts use their discretion of suspension rather liberally.

63. In almost all the states she visited, the Special Rapporteur observed that police internal-affairs divisions wait for the courts to convict officers before removing or suspending them administratively. Thus, she regrets that notoriously abusive policemen, who sometimes even plead insanity, are not systematically removed or suspended administratively, from active duty until criminal charges have been resolved. Although she is aware that the Brazilian Constitution contains a provision (art. 41, sect. 1) that guarantees tenure to certain civil servants - including military and civil police - even despite convictions against them, the Special Rapporteur believes that this practice gives a wrong signal to perpetrators of human rights abuses and might discourage members of the police who carry out their duty with integrity.

64. Finally, the culture of impunity during military dictatorship has left its imprint on Brazil. There is a strong belief that a number of persons who disappeared in the Araguaia in the 1970s were subsequently summarily executed by the military. A few federal prosecutors visited the area of Araguaia in 2001 to gather evidence about past abuses. They saw indications that the army still had an intelligence unit in the area, food and weapons were still being distributed and

witnesses bribed or threatened. The investigation of the prosecutors was obstructed by members of the military. The material collected was confiscated by a lieutenant in the army and the prosecutors were threatened. Finally, the investigation was called off.

### **E. Measures taken by the Government**

65. Police violence is not an inevitable response to criminality, nor is it irrevocably linked to poverty or unequal wealth distribution. The incidence of police abuses can definitely be controlled by enforcing measures combating these practices. While it is not the intention of the Special Rapporteur to make an exhaustive list of all governmental steps taken to resolve the situation, she has identified a few of them that deserve special attention.

66. As soon as he took office, President Luis Inacio Lula da Silva decided to attach the State Secretariat for Human Rights to the President's office, thereby raising it to a ministerial level and increasing its impact and significance. The 1996 National Human Rights Programme launched by his predecessor, President Fernando Henrique Cardoso was revived, updated and broadened by the Second National Plan for Human Rights (PNDHII) through Decree NP 249 of 13 May 2002. Within this scheme, of particular concern to the Special Rapporteur is the PROVITA witness and victims' protection programme designed at the federal level and implemented by states in partnership with non-governmental organizations with federal funding. According to the information received, to date 16 states have established this agreement with the federal Government and are currently implementing a PROVITA programme, thereby protecting some 600 individuals, the vast majority of whom are testifying in cases involving members of the police. Information received from the civil society, however, indicates that the resources allocated to these programmes are scarce and that the protection granted to witnesses is reportedly not always fully satisfactory. Indeed, concerns have been raised as to the actual commitment of some state police agents - who might also be acquainted with colleagues responsible for human rights abuses - in providing full protection to witnesses. Despite the heavy risks to their lives, witnesses are reportedly reluctant to enter these programmes as they entail a dramatic life-change, including relocation and change of identity, and have expressed the wish to have more flexibility in the protection granted by the State.

67. The Special Rapporteur was briefed on the National Plan for Public Safety adopted by the Ministry of Justice, whose objective is to strengthen the public security system in Brazil. The main proposal is a Unified System for Public Security, which consists in centralizing information management, providing unified training of police with particular emphasis on human rights and use of non-lethal force, strengthening the importance of forensic investigation, using community police as a tool to crime prevention, reinforcing police ombudsmen and creating unified internal investigations units so as to make them more independent.

68. The project to reform criminal investigation procedures intends to eliminate the preliminary police investigation and replace it by an investigation conducted by the prosecutor and controlled by an investigative judge. It is worth mentioning that this proposal purports to foster greater integration between civil and military police. Greater integration of the state police would arguably lead to bringing the investigative branch of the police closer, if not to unite it with, the military police. A number of people, including one senior police officer, had grave doubts about the scheme of "greater integration" of the civil and military police. Their fears are

that the military police, which is far greater in numbers and has a poor record in terms of human rights, could influence investigations of the members of the military police and erode whatever little independence is maintained by the civil police.

69. A bill about registration, ownership and use of firearms, the “Disarmament Bill” has been approved by the National Congress and is pending presidential approval. This legislation aims at strengthening federal control over the registering and use of firearms and provides for a full range of sanctions, including use of weapons by minors. It is to be hoped that, if enacted, this legislation will hamper use of unregistered weapons by the police and will encourage minors to give up on their guns.

70. Another significant measure is a proposed amendment to article 109 of the Constitution of the Federative Republic of Brazil of 1988. The proposal has been approved by the Chamber of Deputies and it seeks to bring to the federal level the investigation and trial of cases of serious violations of human rights. The Prosecutor-General of the Republic, in order to ensure the enforcement of Brazil’s human rights obligations, will be able to seek permission from the Superior Tribunal of Justice in any phase of the investigation or the transfer of a case to the competence of federal justice. It is a welcome step forward to combat impunity. At the same time, the Special Rapporteur hopes that concurrent jurisdictions between the State and federal justice systems are not created, thus stalling criminal proceedings. This new step will also bring greater expectations for the office of the Federal Prosecutor-General and the federal judicial system. This reform also relates to the disciplinary control of judges for misconduct as well as measures to expedite judicial proceedings.

#### IV. CONCLUDING REMARKS AND RECOMMENDATIONS

##### Conclusions

71. **The Special Rapporteur is aware that the federal Government, along with some state governments, is working towards improving the criminal legal system for prevention of extrajudicial, summary or arbitrary executions, by establishing new policies and institutions/structures to ensure better delivery of justice. Other key legal and administrative reforms are under way. These measures do, however, fall short on a number of counts; first, since some states fail to fully accept the existence of extrajudicial and summary executions by the military police, their plans remain superficial. Secondly, reforms are being carried out in patches and lack cohesion. Finally, all new and existing institutions, commissions and structures lack adequate skills and capacity in order to function effectively.**

72. **The Special Rapporteur was overwhelmed with information about human rights violations perpetrated by the security forces, in particular the military police. Many of the reports were backed with evidence which strongly indicated that these grave human rights abuses occur in impunity.**

73. **Brazil’s criminal legal procedure should be streamlined without compromising on due process: the gaps within the procedural law allowing easy escape from justice for the accused should be addressed so as to end impunity.**

74. **The judicial system is in need of drastic reforms to cope with delays and backlogs. There were serious misgivings about the independence of the judiciary. Litigants showed no trust in the system while witnesses were apprehensive in giving evidence in courts, which did not inspire confidence. The jury system works well in large cities but is dysfunctional in smaller cities, where the population is interrelated and bound to each other through ethnic or other ties.**

75. **The Special Rapporteur was encouraged to see the collective will of federal cabinet ministers to ensure that human rights are respected in Brazil. The federal Government has built partnerships with members of parliament, bar associations, public prosecutors and NGOs in order to better implement their policy of promoting human rights norms. The Special Rapporteur was pleased to see a similar teamwork spirit in Espirito Santo, where the newly elected Governor was deeply concerned at the rising crime and at reports of extrajudicial killings perpetrated by the police.**

### **Recommendations**

76. **All proposals for legislative or administrative reforms should address both prevention and accountability of extrajudicial or summary executions.**

77. **The recruitment procedures and requirements of police constables and officers should be reviewed. All new entrants to the police should be screened for any affiliations with criminal gangs and their orientation towards human rights values should be tested.**

78. **In view of the strong allegations and credible reports about links between criminal elements and some serving members of the police, fair and transparent screening procedures should be laid down and implemented.**

79. **The quality of training and refresher courses for the police should be regularly scaled up and include a human rights component with full training of uses of deadly force as a last resort to protect life. Trainees should be sensitized to the suffering of victims through creative methodologies, and human interaction with victims or their families. Greater participation of civil society including in designing of curricula should be encouraged.**

80. **The Government should maintain a comprehensive databank on human rights violations attributed to members of the law enforcement agencies. This must include the number of killings perpetrated by the police, the number and type of criminal accusations, the number of criminal investigations carried out and convictions/acquittals of those accused. Every violent death in custody must be recorded; inquiry reports for each death should be available in every prison and at a centralized government department. The names and addresses of the victims should also be collected. The data and information on extrajudicial or summary executions should be made available to the public including the press and NGOs. This data will indicate crime patterns and provide a strong base for future governmental policy and plans.**

81. **Prison wardens should be given proper training and orientation. Every detention centre must allow visits of non-official persons working for registered human rights organizations.**
82. **Public prosecutors' offices should be strengthened. The tenure of the heads of prosecutors' offices should be of a reasonable period, to allow sufficient opportunity to consolidate their work. Prosecutors' offices should be provided with a team of investigators and be encouraged to make independent investigations against charges of extrajudicial executions. Legal obstacles which prevent such independent investigations should be removed through further legislation.**
83. **In any incidence of massacres allegedly perpetrated by the police and where witnesses refuse to testify or where there is insufficient evidence to identify individuals who carried out the crime, the Government should also (apart from criminal proceedings) hold a judicial inquiry to determine the sequence of events so that victims are compensated.**
84. **Dependants of victims of extrajudicial executions should be entitled to obtain fair, adequate and timely redress from the State, including financial compensation.**
85. **Intelligence agencies should also be associated with the investigation of killings by the so-called death squads, as they are crucial in disclosing the identity of its members. It is therefore critical to reorganize these services by promoting individuals with integrity and by placing more resources at their disposal.**
86. **The time limit on prosecutions of the crime of murder must be abolished.**
87. **Governments should ensure that all complaints and reports of extrajudicial executions are investigated promptly, impartially and effectively by a thoroughly independent body. The public prosecutor should decide whether killings of civilians by the police are "intentional" or not after conducting an independent investigation.**
88. **The methods and findings of criminal killings in alleged cases of extrajudicial killings should be made public. Relatives of the victim should have access to information relevant to the investigation.**
89. **Government should ensure that anyone in danger of extrajudicial execution, including those who receive death threats, is effectively protected.**
90. **The Witness Protection Programme (PROVITA) should be better resourced, and all police personnel connected to it should be thoroughly screened.**
91. **Forensic institutions should be autonomous and run by non-police professionals as they are critical for conducting investigations. Their technical support should be increased and regularly upgraded.**
92. **The office of the police ombudsman should be strengthened, its tenure increased and its annual report presented to the state parliament for discussion.**

**93. Police officers indicted of extrajudicial killings must be temporarily suspended until the conclusion of their trial.**

**94. In order to support the independence of the judiciary, a closer assessment of the system needs to be carried out by an expert. It is strongly recommended that the Special Rapporteur on the independence of judges and lawyers undertake a mission to Brazil so that comprehensive and focused recommendations are presented in this area.**

**95. The current reforms and proposed legislation initiated by the Government must be speeded up and reassessed twice a year; they should be discontinued if found unworkable.**

### Notes

<sup>1</sup> Some members of the victims' families and other witnesses chose to speak in open forums arranged by NGOs.

<sup>2</sup> Reference: the 1988 Constitution.

<sup>3</sup> Urban slums.

## Appendix

### Individual cases

#### Alagoas

**A.C.S.**, 16, **Davis Araújo Félix dos Santos**, 19, and **André Antônio Rufino**, 20, were reportedly killed by police officers on 9 June 2001, at 120 Professor Gilson Lucas Street in the Santa Lúcia neighbourhood of Tabuleiro do Martins, Alagoas. Two other adolescents were reportedly wounded in the attack. According to the information received, on the day of the crime, the five young people were in a friend's house when four hooded police officers forcefully entered while shooting. It is reported that military police officers Adelson Tenório da Conceição, João Costa Pereira, Valdir Antônio Pereira and Adriano Christian dos Santos were indicted. However, the Special Rapporteur did not receive any information regarding the organization of a trial.

**A young man** was reportedly killed in 2002 as he was going home at approximately 4 a.m., along with three friends. According to the information received, they were approached by military police officers. As he tried to run away, he was reportedly shot dead by an officer who is suspected to be involved in a death squad.

**Maurício da Silva**, 19, **Thiago Holanda da Silva**, 18, **C.F. da S.**, 17, and **S.J. da S.**, 15, were reportedly found dead, on 2 September 2002, with gunshot wounds to the head and neck, in an alley in the neighbourhood of Alto Cruzeiro, in União dos Palmares. According to the information received, two investigation's reports were reportedly forwarded to the court without charging any individuals for the crime. The first reportedly concluded that the deaths were caused by "crowd violence", and in the second it was allegedly stated that there was not enough evidence to indict. It is reported that several irregularities were identified in the police inquiries, including the absence of forensic tests on the crime scene and the fact that the investigators did not interview crucial witnesses or conduct ballistic tests on the guns of the suspects. Furthermore, it is alleged that there was evidence showing involvement of police officers who are said to be members of a death squad.

#### Bahia

**Antonio Carlos Conceicao Souza**, 20, **Júlio César Jesus Barbosa**, 23, and **Daniel Santos Silva**, 25, were reportedly found dead, with bullet holes in the head, on 25 March 2001 in Sussuarana Velha. According to the information received, the three young men were apprehended, forced to lie on the ground and shot by three men allegedly known to be working for the military police. It is reported that a few minutes after the incident, a military-police car took the victims to the Roberto Santos Hospital. However, all three were reportedly dead before getting to the hospital.

Two brothers, **Isaiás Nunes Tavares**, 24, and **Ismael**, 26, were reportedly attacked by members of a death squad, which is said to be mainly composed by policemen, on 8 August 2003 in Alto do Cabrito, Ferroviário de Salvador. According to the information



received, they were forcefully taken from their home and then shot at by five hooded men wearing police uniforms and who presented themselves as police officers. Isaías was reportedly killed on the spot. Ismael reportedly pretended he was dead and was able to flee.

**Levi Santos Silva**, 18, was reportedly shot to death on 12 April 2002. According to reports, on the day of the killing, Levi Silva was in the Praça de Periperi with three friends when military police officer Saulo Braga Lopes approached the group and ordered Silva and his friend, Ricardo Hohlenwerger dos Santos, to get into his car. It is reported that three other people, a barber known as Agnaldo and two unknown individuals, were already in the car. They reportedly travelled along national highway BR 324, and then stopped on an old road allegedly reputed to be a dumping ground for the corpses of victims of death squads. The victims were reportedly pulled out from the car, ordered to lie on the ground, and shot. Silva was allegedly shot 10 times and Hohlenwerger, 6. Hohlenwerger reportedly feigned death until the assassins had left. According to reports, after the episode, Hohlenwerger was twice threatened by officer Lopes and another one known as Dadua. Although a police investigation into the crime was opened in the eighth police precinct of Salvador and later transferred to the Salvador police department's special homicides unit, it is reported that, to date, the inquiry has been inconclusive and that no witnesses have been heard. It is furthermore alleged that despite the fact that Hohlenwerger identified the individuals responsible for the crime in his statement to the Centre of Operational Support of the Criminal Division of the State Office of the Public Prosecutor (CAOCRIM), no concrete steps have been taken to investigate or indict the individuals named.

**Antônio Carlos de Jesus Bispo (Antônio Carlos)** and **A.I.S.** were reportedly executed on 1 August 2002 in Santo Antônio de Jesus. According to the information received, at about 11 a.m. a military police officer known as Luis de Bia arrived on a motorcycle, stopped, stared at them for a while, and then left. A few moments later, it is reported that some other military police officers arrived at the store, approached the young men, and forced them to get into their car. At around 6 p.m., Antônio Carlos' family was reportedly informed that police officers had killed Antônio Carlos and A.I.S. and that they were at the hospital. It is alleged that the bodies of both young men appeared to have been severely beaten, and their heads had been hit with gun butts. A.I.S.'s body was reportedly found in the morgue, covered in excrement. It is alleged that witnesses reported that, on the day of the incident, police vehicles were seen passing by a quarry often used for discharging corpses with two young men. The police officers allegedly took the young men to a forest, where they shot them several times. The officers later left the forest, allegedly saying that they had arrested two vagabonds. It is furthermore reported that the police did not open an investigation into the deaths.

In October 2002, **A.C.S.** was reportedly threatened by eight men, four of whom were allegedly members of the Santo Antônio de Jesus Tactical Force Platoon, while he was in a bar. It is reported that, after a while, a P2 military police officer nicknamed Pomponet arrived in a white Volkswagen Golf and asked him why he had run away when he had been approached in the market a week earlier. A.C.S. was reportedly forced to get in the car, hooded and taken to a forest where he was severely beaten and interrogated about crimes committed in the region and their probable perpetrators. Pomponet reportedly pointed a gun to his head and began playing Russian roulette, telling him that he was going to die. According to the information received, A.C.S. told Pomponet that he had denounced him in the city court and that, if he disappeared or if he were found dead, he would be considered responsible. It is reported that A.C.S. was then released.

On 23 December 2001, **N.A.U.**, 21, as he was walking home at approximately 4.30 a.m., accompanied by his girlfriend and **A.G.S.**, was reportedly approached by five masked and heavily armed men wearing bullet-proof vests and gloves in a Fiat Uno. They allegedly identified themselves as police officers and told N.A.U. to get in the car. According to the information received, as N.A.U. refused to do so, the men hit his head several times with the butts of their guns, and forced him to get in the car, saying that they would kill him if he did not obey. They reportedly left in the direction of the city cemetery. After being informed of the incident, N.A.U.'s parents reportedly went seeking information to the Military Police 14th Battalion Headquarters where they were told to go to the Santo Antônio de Jesus police station. When they got there, police officers reportedly said they had no information about their son and that they should wait until dawn. N.A.U. has reportedly been missing since then. Fears have been expressed for the life and safety of N.A.U.

**S.R.L.** reportedly disappeared on 5 July 2002. According to the information received, police officers on duty at the police station reportedly refused on two occasions to register his father's complaint about the disappearance and told him that S.R.L. probably left home voluntarily. S.R.L.'s family was finally able to file a report on 15 July 2002. According to reports stating witnesses, on the day of the incident a silver Fiat Uno approached S.R.L. and A.V.O. who works as mototaxi, forcing them to stop. As a witness was allegedly asking the men in the car about what was happening, they reportedly replied that they were police officers and that they were arresting an outlaw. S.R.L. was reportedly forced to get in the car. A.V.O. was told to follow them with the motorcycle. According to reports, in a statement to the Public Prosecutor, A.V.O. confirmed the information provided by the witness and further said that police officer Pomponet took them both to a place called Cascalheira where S.R.L. was interrogated about various crimes then severely beaten until he lost consciousness. Pomponet reportedly threatened to kill S.R.L. if he said a word about what happened and told him to go away. A.V.O. reportedly said that he had not seen S.R.L. since then. Fears have been expressed for the life and safety of S.R.L.

### **Espirito Santo**

**A taxi driver** was reportedly shot dead on 27 August 2000 around 10.40 a.m. in front of his house by a corporal of the military police and a member of the civil police. His mother, according to the information received, witnessed his killing.

### **Pará**

**Hider Sirney dos Santos Coelho** was reportedly beaten and killed by a military police officer on 9 April 1999. According to reports, two police officers, named Valdenor and Medina, went to his house allegedly in connection with an enquiry regarding the theft of a videocassette player. They allegedly asked Rosilene, his seven months pregnant wife, to leave the house, as they wanted to resolve the problem directly and only with her husband. The police officers reportedly beat him brutally. As Hider was trying to flee, he was, according to the information received, shot four times. The Special Rapporteur was informed that the autopsy report revealed that he was shot in the legs, the shoulder, the kidneys and the face. It is reported that later, a group of civil police officers and another one of military police officers came to the house. Rosilene, who had allegedly witnessed the killing of her husband hidden behind a car, tried to inform them that officer Valdenor was responsible for the murder of her husband. According to

reports, officer Medina physically harassed her and told her not to say anything. According to the information received, at the police station, the two suspects were allegedly seen talking to the doctor in charge of carrying out the gunpowder test before they went to the toilets to wash their hands.

**David Ferreira de Abreu** (8 years old), was reportedly killed on 4 December 2002 in Nova Marabá, at around 4 p.m., by a former federal representative, Osvaldo dos Reis Mutran, also known as Vavá Mutran, 71 years of age, father of a former mayor of Marabá and now counsellor to the mayor. According to the information received, David was playing football in a field near his house and the ball was thrown in his garden. Vavá Mutran reportedly took a gun from his bag and shot David in the head. According to reports, the victim ran a few steps towards his house, but soon fell. Vavá Mutran reportedly kicked the boy, and told him to get up and go home; but it is alleged that when he saw the victim was bleeding quite heavily, he got back into his car and fled. David reportedly died a few hours later at the Celina Gonçalves Hospital. It is reported that the incident was witnessed by several people. According to the information received, Vavá Mutran was quickly imprisoned in his residence. His lawyer allegedly stated that he did not fire the shots at the victim but that it was one of his home's guards, Assis, who fled, who was responsible.

**Onalício Araújo Barros, known as "Fusquinha", and Valentim Silva Serra, known as "Doutor"**, two leaders of the landless workers movement (MST) were reportedly killed on 26 March 1998 in the municipality of Parauapebas, Pará, by farmowners during a forced eviction of more than 300 families, who were occupying the farm Goiás II, supposedly the property of the businessman and agrarian Carlos Antonio da Costa, known as "Carlinhos da Casa Goiás".

According to the information received, soon after midday Carlinhos reportedly arrived at the farm, accompanied by justice official Eduardo Ferreira do Vale and 11 off-duty military policemen, all heavily armed. Before they went to the settlers' camp, they reportedly organized a barbecue at the headquarters of the farm, drinking alcohol and allegedly celebrating the anticipated eviction. At about 3.30 p.m., already drunk, armed, and with their identification badges covered with tape and some of them covered with hoods, the policemen accompanied the justice official Eduardo to the camp to proceed with the eviction. The workers reportedly decided to leave peacefully.

At about 5.30 p.m., Fusquinha and Doutor, the two MST leaders, reportedly arrived at the farm, in a D-20 white truck. It is reported that Fusquinha tried to negotiate with the justice official Eduardo Ferreira do Vale, without success. He reportedly informed Carlinhos that he was going, with the workers, to camp in the town Cedere I, located several kilometres from the Goiás II farm.

According to the information received, at around 6.30 p.m. they left heading in the direction of the town. The two leaders were reportedly in the first truck with several other rural workers and were followed by four other trucks with the families of workers and further back the farmowners' cars, the gunmen and the justice officials.

Upon arrival at Cedere I, it is reported that the farmowners began to argue with Fusquinha and Doutor, allegedly refusing to allow the workers to camp in this town. According to the information received, at this moment, Carlinhos ordered the gunmen to fire. The farmowner and a gunman named José Marques Ferreira (“Donizete”) reportedly shot Doutor directly in the chest and, as he was coming closer, Fusquinha was struck by several shots. It is reported that some of the workers who witnessed the killings were only a few metres from the victims.

According to reports, the witnesses for the defence have been heard, but those for the prosecution have fled, afraid for their lives. It is reported that, a few days after the death of the MST leaders, the truck driver, a key witness for the prosecution, was killed in unclear circumstances. It is alleged that no judicial inquiry was established into the driver’s death. The Police Chief responsible for the case, Bragmar Dias dos Santos, allegedly appeared at the time in the press discarding the possibility of the crime being linked to the fact that the victim knew too much.

The trial into the deaths of Fusquinha and Doutor was later transferred to the Agrarian Court of Marabá. As the competency of this court to judge penal actions was not yet established, fears have been expressed that the court’s decisions may be cancelled in the future.

**Antônio Vieira da Silva**, a farmowner, and seven rural workers, namely **Justino Pereira da Silva, Antônio da Conceição, Pedro Formiga, Eliseu, Maurício, Penteado** and **Baixinho Moreno** were reportedly killed, on 12 September 2003, on the farm São Sebastião, near Primavera, in the town of Félix do Xingu. According to reports, some weeks before the incident, security guards of the São Sebastião farm threatened Antonio da Silva with death, urging him to withdraw from the area with his employees. The farmer reportedly did not leave. The security guards reportedly came back on 12 September, at lunchtime, and shot the farmowner and his seven employees at point-blank range. The shots were fired, according to the statements of medical legal experts reported to the Special Rapporteur, from a distance of one metre and one victim was hit in the nape of the neck with shots from a calibre 38 revolver.

According to the information received, the Civil Police Chief, Aldo Castro, stated on TV Globe on 16 September that policemen and influential groups were involved in the case.

**Alberto Valentim Santos da Cruz, known as B.A.**, was reportedly shot dead on 12 June 2002 by three civil police officers, namely Ricardo Luiz Oliveira Alves, Luiz Miguel Castro de Carvalho and Marco Luiz Mouzinho Velasco. According to the information received, the police officers invaded his home as they were suspecting him of illegally possessing firearms. They reportedly held his head in the toilet and wounded him with a shot. According to the information received, Alberto Santos da Cruz was later taken to a neighbour’s house where the police officers thought they could find the firearms. He was reportedly killed there, wrapped in a sheet and put in the police car. It is furthermore reported that one of the police officers fired a shot on the floor in order to disperse people who had gathered and said that he had already killed a man and could do it again to anybody. It is alleged that the police officers received money from Grandão and Orlando, two shop owners who had an argument with Alberto Santos da Cruz some weeks earlier and were present at the time of the incident. The police inquiry reportedly concluded that the officers were carrying out their legal obligation and the case was filed.

**Pedro Dantas**, gravedigger, was reportedly killed on 1 November 1999 by a police officer, Remilton dos Santos Rodrigues, in Belém. According to the information received, he was returning home with a friend named Jesus Nazareno Cardoso Alho when a police investigator, accompanied by a man known as Zé Miséria, stopped him, took him by his shirt, put a gun against his chest and shot five times. He reportedly kicked the dead body several times to allegedly make sure that Pedro Dantas was dead. It is alleged that Remilton Rodrigues had been hired by Zé Miséria to find two thieves who robbed his brother's supermarket earlier this same day. According to reports, the police officer was reportedly arrested and jailed for one month. The Special Rapporteur was informed that he pleaded insanity for his defence. The Judge reportedly required a psychological examination but it is alleged that, as there is only one psychiatrist at the Forensic Institute, it could take two years before the examination is performed.

## **Pernambuco**

**Fábio Rodrigues da Silva**, 15, **Luciano Francisco de Oliveira**, 18, **Alexandre Bonifacio da Silva**, 18, and **Luiz Carlos Alves da Silva** were reportedly forcefully apprehended and killed on 12 June 1999. It is alleged that Lieutenant Carlos Roberto da Silva Júnior, Corporal Paulo Tomaz Duarte, Antonio Luiz Cabral and Carlos André Luciano dos Santos are responsible for the killings. It is reported that, except for Lieutenant Junior, they all wore military-police uniforms during the incident. According to reports, Fabio da Silva was apprehended by Carlos dos Santos and Corporal Duarte at his home at approximately 2.30 a.m. for allegedly using drugs. He was reportedly found the same day in a nearby neighbourhood, Jardim Brasil II. Luciano de Oliveira was reportedly arrested at his home on the morning of the same day by Lieutenant Junior and, according to the information received, his dead body was found in Paulista. Alexandre da Silva was reportedly forcefully taken from his house by Lieutenant Junior. According to reports, as his mother was pleading for her son's life, she was threatened to death by the officer. Alexandre da Silva's dead body was reportedly found next to Fabio da Silva's body in Jardim Brasil II. According to the information received, Luiz da Silva resisted when the assailants broke into his house to arrest him. He was reportedly beaten and his wife was also physically harassed. It is reported that his dead body was later found next to Luciano de Oliveira's body in Paulista. It is alleged that the boys were accused of injuring one of the assailant's father and of stealing firearms and a military-police car.

## **Rio de Janeiro**

**Ricardo Wilson** was reportedly tortured to death in a judiciary psychiatric hospital on 9 April 1999. According to the information received, he was sentenced for three years for having robbed people in a bus. He reportedly asked several times to leave the hospital as he alleged that he was being harassed and tortured by officers of the hospital. According to reports, the police investigation on this case is still under way.

**Rodrigo Marques da Silva** was reportedly killed by a police officer in Santa Teresa in May 1999. According to the information received, he was at a friend's house when the police entered. He was reportedly shot twice in the back.

**Colonel Carlos Magno Nazareth Cerqueira**, former chief of the military police of the State of Rio de Janeiro and allegedly well known for defending human rights and punishing police officers involved in violation of citizen's rights, was reportedly shot and killed on 14 September 1999. According to the information received, two hours after the incident, the State Secretary of Public Security informed the Brazilian media that military police Sergeant Sidney Rodrigues was responsible for this killing and that he had shot himself in the head immediately afterwards. The State Secretary reportedly also revealed that Sgt. Rodrigues had a history of psychological problems. However, the wife of Sgt. Rodrigues as well as the Commander of the Battalion where he was working, allegedly denied knowing the sergeant had any psychological problem. According to the information received, autopsy reports showed evidence which excluded the possibility of suicide and which subsequently allegedly invalidated the explanation of Col. Cerqueira's murder. It is furthermore reported that in July 2000 the police inquiry on Col. Cerqueira's death was reactivated but, to date, no further information on the investigation has been forwarded to the Special Rapporteur.

**H.S.G.S.**, 16 years old, was reportedly killed on 21 January 2003 by police officers during a joint action by the 23rd civil police precinct and the 3rd military police battalion in the hillside slum of Nossa Senhora da Guia in Lins de Vasconcelos. According to reports, the adolescent was approached by police officers and led to a police vehicle, where another man was also under arrest. The officers reportedly took the two arrestees to the top of the hillside and shot them dead. H.S.G.S.'s mother reportedly lodged a complaint for the killing with the police administration, the police ombudsman and the human rights commission of the legislative assembly of Rio de Janeiro. It is furthermore alleged that, despite its request, the police authorities refused to send to the Human Rights Commission the autopsy and the police reports nor any information relating to the investigation.

**Wallace da Costa Pereira**, 11 years old, was reportedly shot in the back and killed by military-police officer Diogo da Silva Cunha, in Lapa on 21 January 2003. It is furthermore reported that Wallace Pereira's family has been intimidated and harassed by Diogo Cunha before the victim was killed. It is also alleged that, although a criminal case against him is currently pending, Diogo Cunha has been at liberty since 14 March 2003.

**Carlos Magno de Oliveira Nascimento**, 18, and **Tiago da Costa Correia**, 19, were reportedly targeted and shot by military police officers positioned on the roof of a house as they were waiting outside a barbershop in Borel on 17 April 2003. According to the information received, Carlos Nascimento suffered six shots - three from the front and three from behind - and was killed immediately. Tiago Correia reportedly suffered five shots. He reportedly lay on the ground crying for help and the police officers allegedly shot in the air to prevent his parents from helping him. One police officer allegedly said that "this would add 10 per cent to his salary". A while later, **Carlos Alberto da Silva Ferreira**, 21, was reportedly shot as he was approaching the barbershop. According to the information received, he suffered 12 shots, including several times at point-blank range. **Everson Gonçalves Silote**, 26, was arrested by police officers on Independencia Street. He was reportedly beaten and his arm broken. According to reports, he was then killed as he attempted to retrieve his identity documents from an envelope.

**Jeferson Ricardo da Paz**, 22, was reportedly killed on 29 April 2003, in the doorway of his house by civil police officers in the *favela* Mandela II, Manguinhos. According to the information received, five police officers from the Capturas Norte police station arrived in the neighbourhood in an unidentified civilian vehicle. They reportedly stepped out of the car and began shooting. It is furthermore reported that the police officers did not assist him as he was taken to Da Paz Hospital by residents of the neighbourhood. He reportedly died on the way to the hospital.

## São Paulo

**Eric Nogueira** was reportedly shot and severely wounded by a police-officer named Sandro after they had an argument in a bar. According to the information received, Sandro first shot him in the shoulder and left the bar. He reportedly came back hooded and attacked the victim, who was shot six times. It is furthermore reported that, in order for Eric to know who killed him, he took off his mask. According to reports, Sandro was later arrested but he was allegedly freed recently. Since his release from jail, fears have been expressed for Eric's safety.

**Rodriguez Isaac dos Santos** was reportedly approached and arrested by a police officer before he disappeared. According to reports, he was last seen in a police car. It is furthermore reported that a sergeant and six lower-ranking criminals would be involved in the disappearance and alleged killing.

**William da Silva** was reportedly killed by a military-police officer, Araujo, as he was coming from a party with his neighbour and another friend. He was reportedly killed as he was mistaken for a person who allegedly had an argument with the police officer while he was serving as security guard at a supermarket.

**Several suspected criminal gang members** were reportedly executed summarily in March 2002 by members of GRADI, a special intelligence unit within the São Paulo military police. According to the information received, the victims were travelling in a bus on the Castelinho highway when killed in an alleged shoot-out during a police operation. It is reported that forensic examinations of the victims suggested that many had been executed.

**Jose Maria Seminao** was reportedly found dead in his car on 8 March 2002. According to the information received, his killing could be linked to a report he gave to the internal oversight office on death squads in Guarulhos where he allegedly stated names of policemen involved in such activities.

**Aparecido Adormi**, 17, and another young man were arrested and killed on 28 July 2002 by the police. According to the information received, prior to the incident, a police officer had threatened him.

**Claudino dos Anjos Silva and his twin brother, Claudio**, were reportedly shot at the door of their house, witnessed by their family on 13 September 2003. According to reports, they were hospitalized while some policemen continuously threatened the staff at the hospital and the victims themselves. Out of fear, the hospital administration prematurely discharged them from

the hospital, as a result of which Claudino died. It is alleged that his killing could be linked to the fact that his twin brother was called to testify about a killing perpetrated by a police officer on 14 October 2002.

**Alessandro Francisco Alves**, 26 years old, reportedly died as a result of torture on 22 October 2002 while completing his sentence in the Penitentiary Mário de Moura Albuquerque, in the city of Franco da Rocha. According to the information received, on 17 October 2002, Alessandro and two other inmates, Alex Brotel Rabello and Edmar Salvagnini, who had allegedly been threatened by other inmates, asked the prison staff to be transferred to another jail. It is reported that they were neither heard nor helped and that they began to shout and asked to be transferred to the health sector of the prison. They were reportedly taken there by staff members of the unit, commanded by the penitentiary agent, Marcos Tozatto, where they were tortured and beaten. It is alleged that due to his severe injuries and the lack of subsequent medical assistance, Alessandro died of septic shock.

**Alex da Silva** reportedly disappeared on 28 February 2003 after being arrested, along with a friend, by police officers. According to reports, he was last seen in a police car. Fears have been expressed for his life and safety.

**Alexandre Savioli** and another young man were reportedly arrested on 8 March 2003 by police officers during a robbery. According to the information received, their dead bodies were found two days later.

**Dilsimair Roberto Dos Santos**, 21 years old, reportedly died after being shot by police in Franco da Rocha prison on 16 June 2003. According to the information received, on 21 May 2003, the guards, suspecting the existence of a cell phone in the first wing of the jail, threatened the inmates of depriving them of family visit which reportedly caused agitation among the prisoners. Facing the possibility of a rebellion, the precinct police reportedly called in reinforcement the GARRA team, and approximately 30 policemen heavily armed came to control the tumult. As the prisoners refused to move to the patio of the jail as ordered by the guards, the police reportedly began to shoot in the direction of the prisoners, with anti-riot munitions. According to reports, Dilsimair was shot in the head. Although other inmates asked for help, it is reported that the police began to joke saying that he had hit his head on the cell bars and that there was no great hurry to help him. According to the information received, he was later taken to the Hospital das Clínicas in Franco da Rocha where the doctors identified his injury as cranial trauma with grave encephaly with brain mass exposed. In order to effect surgery, he was reportedly transferred to the Hospital Mandaqui, where he died.

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