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**POLICE VIOLENCE, DEMOCRATIC TRANSITION AND RULE OF LAW IN BRAZIL (1980-1998)\***

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**POLICE VIOLENCE, DEMOCRATIC TRANSITION AND RULE OF LAW IN BRAZIL (1980-1998).**

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This paper is based on an extensive ongoing research project<sup>1</sup> that has as its main objective to examine the role that continued gross human rights violations play in the democratization process in Brazil. One of the focus of the research is on the role that agencies and actors in charge of applying the laws play in continued gross human rights violations. The actual research consists of the reconstruction<sup>2</sup> of a number of high profile gross human rights violations cases, including lynching, killings by death squads and the use of lethal violence by police force throughout the 80's, during the democratic transition. In order to select the cases three data bases were created using the national press as its main source. The data bases then became a very important source of information about gross human rights violations and as such acquired the status of an on-going data collection and analysis activities. At present there is 20 years of information about the three types of gross human rights violations available to researchers. In this paper we will be discussing data concerning police violence in Brazil throughout the 1980's and 1990's and comparing the developments in the profile of police violence before and after the democratic transition as recorded on the press.

Since police violence grew amidst the growth of violence in general we also discuss what happened to violent crime in the period. Because national level data are scarce we limit the discussion to the case of the state of São Paulo, since here police statistics for the period exist and are more reliable than in other states. The growth of violence in São Paulo in this period coincided with a dramatic shift in the role that the state plays in the economy, with an economic crisis that resulted in budget cuts that has effected every aspect of collective life. This picture provides the background against which the role of the state in continued gross human rights violations is examined.

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<sup>1</sup> This paper is based on the ongoing research project *Continuidade Autoritária e Construção da Democracia (Authoritarian Continuity and the Construction of Democracy) at the* Núcleo de Estudos da Violência (NEV/USP), in joint coordination by Prof. Paulo Sérgio Pinheiro, Dra. Nancy Cardia and Sergio Adorno. The project had the financial support of the Fundação de Amparo à Pesquisa do Estado de São Paulo - FAPESP, the Conselho Nacional de Desenvolvimento Científico e Tecnológico - CNPq and from FORD Foundation, Brazilian Office. Helena Singer, Yolanda Maria Alves Évora e Wânia Pasinato Izumino, coordinated fieldwork; Glauber Silva de Carvalho, Marcelo Gomes Justo, Maria Inês Caetano, Petronella Maria Boonen, Jacqueline Signoretto, were researchers and Adriana Alves Loche, Helder Rogério Sant'Ana Ferreira, Vilma Aparecida da Silva, were research assistants.

<sup>2</sup> This reconstruction uses as sources official documents, police inquiries, transcripts of the penal process, newspaper clippings, and human rights reports. Interviews were carried out with the policemen in charge of the investigations, with the public prosecutors (district attorneys) in charge of the cases and judges who examined or tried the cases. People living in the communities where the cases occurred were interviewed as well as members of human rights organizations that intervened in the cases.

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## ***Contemporary Brazil and Violence***

Public security was chosen as one of the major goals of the first term in office (1995-98) of President Fernando Henrique Cardoso (FHC). In his government program (entitled "Hands On"- Cardoso, 1994), the President proposed to redefine the directions of development programs in Brazil to ensure better quality of life for future generations. The Program was grounded on the analysis of the impact of the globalization process and had five priorities (Sousa Santos, 1996): employment, education, health, agriculture and public security.

In terms of public security the Program intended to adopt a broad approach. A concise and precise diagnosis of the issue of insecurity was the foundation of the Program. Many important issues were raised such as: the lack of credibility of public institutions the growing relationship between drug traffic and the presence of drugs in other crimes (such as homicides, robberies and kidnapping); growing impunity; systematic gross human rights violations; actions by death squad and vigilante groups private and state related. Poverty and social injustice were also listed as causes of violence. As result a number of problems to be identified as priorities for the reduction of violence: insufficient preventive policing, insufficient training of police forces, old fashioned investigation procedures and the general poor performance of the judicial polices that resulted in poor clearance rate, investigation being delayed, or cases being sent to the archives before any investigation took place.

The President's governmental Program as expected gave emphasis to the need to improve the Federal Police as it was identified that the main problems with this force were: its reduced size, the lack of equipment, the poor pay and the emergence of a movement to unionize the members and which was interpreted as breaking down with discipline and hierarchy. The public security chapter in the President's Governmental Program also identified problems in other sectors of the criminal justice system<sup>3</sup>: the lack of personnel

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<sup>3</sup> In Brazil the criminal justice system is composed of the police forces, public prosecution (district attorneys) and the judiciary. Preventive policing is done by state Military Police forces which despite the name are not part of the Armed Forces but can be called to help the Army in a state of emergency. The judiciary police, i.e. the police that investigates criminal offenses is the Civil Police. Both police forces are state forces and hierarchically they are subjected to the state Secretary of Public Security and this to the state governor. Police inquests are sent to the Public Prosecutors for

in the judiciary and in public prosecution- associated to the overflow of cases in the judiciary and to cases taking a long time to be processed through courts. Finally the Program also pointed to the need to the overcrowding of prisons.

This diagnosis laid the ground for the federal government to plan the reduction of criminal violence with full respect for the law. This was a Program that gave emphasis to Law and Order: "The return to sustained economic growth and to the distribution of income- our major goals- are necessary but not sufficient conditions to revert the growth of violence. It was not a matter of choosing between a Police State and a Welfare State. First because there is no democracy without respect for the law and this in turn demands some coercive power from the state. Second because the state capacity to produce welfare also depends to a large extent in its power to coerce." (Cardoso, 1994, p.161-2).

The governmental program established four lines of action: a) to narrow the cooperation of the federal government with states and municipalities to improve public security; b) to improve universal access to justice as well as to speed judicial processes; c) to improve the penal system and to implement changes to the system present in current legislation; and d) to strengthen federal public security institutions. Each line of action had a specific goal or instrument: a National State Secretary of Public Security was to be created (within the Ministry of Justice) in order to narrow the cooperation between federal, state and municipal forces. Fiscal crime and organized crime were to be contained by enlarging and retraining the Federal Police and Federal Highway Patrols.

Despite this ambitious project and despite the number of policies that were adopted violent crime was not reduced during the first four years of the Fernando Henrique Cardoso government. Violent crime and violence continued to grow. Insecurity and fear continued to flourish. Occasionally a more serious crime with more public profile: a surprising robbery, a kidnap, a homicide case or a case of police violence with multiple victims such as Eldorado dos Carajás (19 persons killed by state police forces) or police striking for pay raise mobilize

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indictment and then sent to the judiciary for the penal process to begin. By criminal justice system it is meant the set of law enforcement agencies involved in this process.

public opinion attracting media attention raising doubts about the nature of the measures adopted and implemented. During this period police violence has continued to challenge the consolidation of the Rule of Law in Brazil.

### ***Social context and political constraints***

The Fernando Henrique Cardoso administration started grounded on a major achievement -that of the control of inflation nonetheless it was confronted with a series of inheritances from previous administrations democratic and authoritarian ones. In the domain of public security there were many challenges: violent crime had been growing since the beginning of the 1980's and this had led to the growth of fear and insecurity. Most citizens regardless of gender, ethnicity, age or income or power felt threatened and insecure about the future in particular about his/her life. Feelings of fear and insecurity are not a monopoly of Brazilians: public opinion surveys in various countries (U.S.A. France and the U.K.) have highlighted public feelings of insecurity in relation to violence. What varied from country to country was the type of crime that provoked such fears (Donzinger, 1993; Lagrange, 1996; Wright, 1987). The difference between Brazil and other countries laid in the fact that feelings of fear and insecurity grew amidst the return to democracy- this represented a paradox as it was expected that full respect for law would produce the opposite effect.

Scholars are still debating about the causes for the paradox: socially rooted authoritarianism or legacies from the authoritarian regime ("authoritarian rubble") within law enforcement agencies?

The fact is that the 1964 Military coup imposed new patterns of relationship between the central federal government, state and local governments which adversely affected the already fragile fabric of the Brazilian federation; the system's fragility was further aggravated by the increasing governmental interventionism in all sectors of civilian life, and by the centralizing nature of the decision-making process. In order to reinforce interventionism and centralization, the military regime repressed any and all organized political opposition in the country. From 1968 to 1974, the successive bureaucratic-authoritarian administrations helped to build a system of political repression

combining military police forces and paramilitary forces. This system was behind activities and actions such as: curtailment of civil and political liberties; outlawing opposition political parties; restrictions on prerogatives of both legislative and judiciary powers; the removal of political mandate (and also of the political rights) of individuals elected by popular vote; censorship; psychological warfare against grass-roots and left-wing organizations; arbitrary arrests, torture and killings which in turn resulted in the collapse of intellectual activities at major universities, scientific and cultural organizations, and in the exile and clandestine life for many political leaders (*Apud* Pinheiro, Adorno e Cardia, 1992).

The effects of this vast process of reordering social and political relations around the authoritarian regime were soon identified in the growth of ordinary crime. From mid 1960's onwards grew the involvement of federal public security agencies the states of the federation. Preventive Policing was militarized (Pinheiro, 1982); arbitrary police searches on the streets or else at poor people's homes became more frequent, as well as actual illegal domicile invasion by police forces (the so-called operations: "get people off bed", an illegal operation devoid of any court warrant (Adorno & Fischer, 1987). The centralization of the controls and the militarization of public security issues transformed common crime control into an issue of national security thus encouraging some confusion between civil control of public order and national security control. As result common crime was to be approached as a war situation through strategies and tactics used to fight a war against a common enemy albeit a poorly defined one: the criminal.

At police stations, torture and maltreatment of suspects of crimes became routine in police investigations. This period is also characterized by a fierce "warfare" between policemen and outlaws. At the root of this war, was the consolidation of death squads - organizations formed by police officers (Military and Civil police officers) and civilians with the goal to kill drug pushers, smugglers and bank robbers, as well as witnesses who might denounce them to the law. Criminal courts having offered no resistance to the arbitrary rules imposed by the military regime to produce public control seemed unaware of this process or unwilling to act.

There is some evidence that during that period, courts were more rigorous in sentencing petty crimes against property such as larceny- a criminal offense at the top of police statistics and generally committed by lower-class citizens than in sentencing crimes against life.

Meanwhile the jail system was also suffering major interventions by the federal government through normative bodies, such as the National Council on Imprisonment Policy and the Federal Prison Department. This intervention had as a goal to cope with prisoner overcrowding specially in Metropolitan areas of Brazil. In the late 1970's, democratic transition began with a number of public demands. In the field of human rights the list of demands was impressive. It included restricting the invasion of houses by law enforcement agents without a court warrant, prohibiting illegal arrests, the return of the right to habeas corpus, the right of proper defense for those accused of breaking the law, the abolition special forums for trying cases of abuse of power committed by civil servants in particular by law enforcement agents.

The enactment of the 1988 Constitution restored formal democracy to the country and created legal instruments for the defense of civilians against arbitrary power by authorities. One of the focus of the Constitution was to ensure that law enforcement agents acted within the law. This was not a simple goal to achieve for the return to democracy demanded negotiations between representatives of the old regime and of the new ones that resulted amongst others in a broad amnesty to both sides- the military and their opponents. One consequence of this was that there was no radical rupture with the former regime and no exemplary punishment for the gross human rights violations. Amnesty also implied that those civil servants -moreover law enforcement officers involved in gross human rights violations could continue occupying their positions in government throughout the course of democratic transition. Not surprisingly violent or arbitrary practices did not vanish with the military regime but continued to grow in response to two different trends: the growth of serious violent crimes in large cities and the growth of movements for the defense of human rights.

Furthermore governors elected by popular vote at the beginning of the democratic transition inherited a very delicate political problem and one that

survives to this day: that of submitting the state military police forces to civilian control. This problem survives to this day and is one of the main obstacles to the successful implementation of the Cardoso administration's public security policies.

Authoritarian inheritances that effect public security policies were also found within civil society. Crime and policies to contain crime came into public debate on the footsteps of the demands for the return to democracy. The maltreatment of political prisoners became an important issue in the struggle for the return of democracy in the course of the Military regime. The struggle to establish the rule of law targeted — among other goals — the use of violence promoted and institutionalized by the State against its opponents. Grass-roots movements, civil society organizations and significant groupings within political parties denounced political violence and the inhumane conditions in the Brazilian jails during the dictatorship years, in doing so they also started to express some sympathy towards ordinary prisoners subjected to violence (Caldeira, 1991). This maltreatment of ordinary prisoners in Brazil — a routine at police stations and other police organizations since the early days of the Republic, perhaps since the days of the Portuguese rule (Pinheiro 1991, more specifically part II, chapters 5 and 6, pp. 87-116) had not before sensitized civil society.

The introduction of the issue of common prisoners in the agenda of human rights encouraged a confrontation between conservative and “progressive” forces and this soon reached the streets. On the one hand, there was a rise of movements for the protection of human rights in several spots in the country, more specifically in the cities of São Paulo, Rio de Janeiro and Recife. The movements main grievances were to conquer/extend human rights to excluded sectors, such as the impoverished working classes, and to protect them from violence and injustice either from the authoritarian State or civil society groups. The emergence of these movements was followed by an upsurge of exposure of cases of police violence and of the use of violence in jails.

The human rights movements besides denouncing violations also undertook the surveillance of closed institutions disseminating the knowledge



thus accumulated through the media to society, fostering public debate. It was this type of action that allowed for the identification of similarities in procedures used to repress political dissent and ordinary crime.

Conservative sectors that had been involved in the previous regime reacted to the human rights movements by playing up people's feelings of fear of violence and of crime. The discourse used by representatives of such conservative forces was directed to those authoritarian values and beliefs held by some groups in the Brazil. Their message reiterated the need for control and for public order. This reinforced collective representations about the legitimacy of using police violence in order to control criminal violence furthermore claiming that to accept that persons serving sentences had lost any claim to rights. The argument being that granting them rights was an insult to law-abiding citizens. This meant that punishment for crimes had to involve more than the loss of freedom it included also the loss of citizenship. In so doing they attempted to undermine arguments used by human rights movements- in particular that human rights are universal rights and as such cannot be suspended. In the climate of widespread fear combined with the difficulties that ordinary citizens had in access to rights guaranteed the success of the arguments used by the conservative forces.

In sum, the polarization of opinions pro and against human rights brings added complexity to the challenges presented by public security issues to the Cardoso administration. For human rights activists Rule of Law cannot be conquered without the state full respect for fundamental rights nor can the state monopoly of physical violence exist without social control of public order (Weber, 1970). For conservative groups human rights policies result in crime growth as it encourages impunity protecting delinquents. Thus another major obstacle to a successful implementation of public security policies resides in the lack of societal consensus over what the priorities should be.

The Brazilian social scenario provokes much disquiet. Very few cities experience any manifestation of solidarity between social classes: those who are protected by laws and those who are excluded. When solidarity is absent segregation and isolation grow and this tends to polarize conflicts. Competition between groups for scarce resources result in further inequalities with more

powerful groups (vis a vis public officials) being granted more protection and security at the expense of others. Society is then fragmented in a myriad of groups each one struggling for a larger share of protection. In Brazil middle class groups feeling squeezed between the upper class and the poor have organized their demands for public security often contesting human rights issues while demanding for order.

There are exceptions to this and movements such as "Viva Rio" and the Instituto São Paulo contra a Violência, move in the opposite direction identifying the problem of crime and violence as an urban problem having multiple causes and for which solutions have to involve actions from multiple partners.

Another challenge to the success of public security policies to be added to this scenario is the continued growth of violent crime. Crime statistics show that violent crime in particular homicide continues to grow (and nearly doubles every ten years)<sup>4</sup> in most metropolitan areas in Brazil, in particular in São Paulo, Rio de Janeiro, Belo Horizonte, Vitória, Recife, Belém, Porto Alegre. In the municipality of São Paulo, this growth is a major cause for concern (Table 1).

**Table 1**  
Violent crime rates by type  
Municipality of São Paulo  
1981-1993

Violent crime	(per 100.000 inhab.)					
	Homicide*	Grave bodily assault	Armed Robbery	Robbery followed by death	Rape	Drug Trafficking**
Year						
1981	14,59	341,13	312,76	3,22	13,97	21,82
1982	14,69	342,99	284,43	2,55	13,39	26,58
1983	22,88	360,19	466,43	2,56	12,14	29,09
1984	26,67	340,80	722,90	3,32	10,33	28,20
1985	27,10	323,86	593,00	2,12	11,11	30,03
1986	28,32	339,98	508,17	1,94	13,90	23,78
1987	30,84	305,47	495,38	1,86	13,50	19,78
1988	29,77	308,92	544,48	2,00	12,83	26,47
1989	35,77	337,09	528,79	2,81	12,01	27,62
1990	35,09	304,62	633,58	3,39	12,31	26,77
1991	34,64	278,62	669,55	3,68	12,53	28,80
1992	29,08	271,70	661,44	3,12	11,14	34,14
1993	33,66	287,65	715,07	2,47	10,79	33,07

**Source:** Anuário Estatístico - SEADE

<sup>4</sup>Crime statistics present a number of problems: under reporting, the role that crime statistics play performance evaluation, police corruption, selection of cases that are to be officially recorded as result of public security policies that give priority to certain types of crimes, victims fear of reporting or lack of credibility in law enforcement agencies (Paixão, 1983; Coelho, 1988; Fundação João Pinheiro, 1986; Robert & et al., 1994; Wright, 1987).

Research: Authoritarian Continuity and the Construction of Democracy (NEV-USP, 1993-1997)

\* the numbers refer only to first degree murder and grave bodily assault.

\*\* Excluding offenses reported by the state Drug Investigating Department - Denarc

Violent criminal offences have been increasing in São Paulo since the beginning of the 1980's<sup>5</sup> (Adorno, 1994a; Caldeira, 1992; Feiguin & Lima, 1995). In the city of São Paulo alone violent crime has grown by 10% within the overall crime rate. According to Feiguin & Lima (1995) this growth accelerated after 1988. At that moment violent crime came to represent 28.8% of all reported crime. During the 80's, there had been erratic growth in the numbers of violent crimes. Caldeira (1992) identified two peaks of growth between 1982-83 and between 1983-1984. There then was a decline until 1987 when the numbers started to rise again. Despite this decline figures were still very high with a rate of 747 violent crimes per 100 thousand inhabitants, while in 1981 the rate was 686 per 100 thousand inhabitants. After 1988, Feiguin & Lima (1995) observe that the growth is faster and that there was a jump: in 1988 the rate was already 945.1 violent crimes per 100.000 people whilst in 1993 this rate was in 1119.2. In six years violent crime had grown by 18.4%. This kind of growth more than justifies the public's fears and feelings of insecurity.

Armed robbery and assault are at present the most common forms of violent crime. Since 1983 armed robberies represent 50% of violent crime (Caldeira, 1992). Feiguin & Lima (1994) identified the same trend for the years between 1988 and 1993. In 1988 the rate of armed robberies or attempted robberies was 544.5 per 100.000 inhabitants. By 1993 this rate was 715.1 per 100.000 inhabitants, which represents a growth of 31.3%. This kind of growth also took place in the metropolitan area where the most common form of violent crime used to be physical assault. The numbers of assaults remained stable while robberies grew (Caldeira, 1992; Feiguin & Lima, 1995).

Rape and attempted rape oscillate slightly but overall the rates of reported rape have declined slightly between 1981 and 1987. They remained

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<sup>5</sup> The analysis of the growth of violent urban criminality was extracted from the theses: Adorno, S. *A gestão urbana do medo e da insegurança (Violência, crime e justiça penal na sociedade brasileira contemporânea)*. Tese de Livre-Docência. São Paulo: FFLCH/USP, 1996. (The urban management of fear and insecurity: violence, crime and penal justice in Brazilian society).

stable between 1988 and 1993<sup>6</sup>. Similarly, the figures for robbery followed by murder remained stable. Offences such as drug use and trafficking show an irregular pattern: they grew between 1981 and 1985, whereas they declined between 1986 and 1987 (Caldeira, 1992). Such variations may be more the result of changes in police policies than to changes in the pattern of drug use and/or dealing. Since 1988 there has been a growth in drug related offences especially in the municipality of São Paulo (Feiguin & Lima 1995). This growth was not limited to the municipality of São Paulo but was replicated in the Metropolitan area as well.

This scenario becomes bleaker when we examine what has happened to the numbers of homicides. Death caused by homicide has been rising for the past two decades as revealed by a number of studies (Adorno, 1994a; Caldeira, 1992; Mello Jorge, 1981, 1982 & 1986; Soares & all, 1996; Yazabi & Ortiz Flores, 1988; Zaluar, 1993)<sup>7</sup>. Camargo & all (1995) noted that throughout the 1980's deaths caused by violence grew by 60% while the overall mortality rate grew by 20%. Homicide had been growing in the Municipality of São Paulo since the mid 1970's<sup>8</sup>. By 1995, the homicide rate in São Paulo was estimated to be 49.8 per 100.000 inhabitants, again much superior to that of the country estimated, by Ratinoff (1996), to be 24 per 100.000 inhabitants. It is likely that in São Paulo as well as in other major cities of Brazil, such as Rio de Janeiro a part of these deaths may be related to conflicts between gangs, whether or not, connected to the drug trade<sup>9</sup>.

The Cardoso administration indeed inherited a most unfavorable scenario in terms of public security. The combination of continued authoritarianism within law enforcement agencies, plus a certain resistance to policies of public security that respected human rights associated with the growth of violent crime is not conducive to full respect for the law. On top of that

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<sup>6</sup> It must be kept in mind that the rates do not reflect the reality but the victim's willingness to report to the police. Despite campaigns started by the feminist movement and despite the rapid increase in the number of Women's police stations especially in São Paulo, unreported offences must be high due to prejudice and the reticence of women to publicize the cases.

<sup>7</sup>The sources to measure deaths by external causes present an array of problems. It is estimated that only 75% of such deaths are registered as such. Figures for the country are more precarious still since it is suspected that people do not inform the registrar office all deaths and or the registrar does not inform the Ministry of Health. To further complicate matters there are a very high number of deaths by undefined causes within "external causes" Cf. Camargo e outros (1995). There are also difficulties in integrating data from different sources. Cf. Feiguin & Lima (1995).

<sup>8</sup> Until the mid 1960's São Paulo had homicide rates similar to those of industrialized countries Mello Jorge (1988) estimated that at that period this rate was 6,0 homicides per 100 thousand inhabitants.

there was the criminal justice crisis (Adorno, 1994, 1996 e 1998a). "The return to democracy coincides with a strong economic crisis and with strong restrictions on the part de State to provide the infrastructure for economic growth. On the one hand the state is incapable of reducing violence by encouraging economic growth, the expansion of the labor market, and the provision of a modicum of quality of life to the majority of the population. On the other hand the economic crisis affecting the quality of life of large sectors of the urban population in particular that of the poorest groups also hinders the state capacity to apply the laws and to guarantee public security (O'Donnell, 1993). Budget cuts affect capacity of the criminal justice system to attend the demand " (Adorno, 1998a, p.235).

Violent crimes grew at a pace that the criminal justice system could not follow. As result also grew the gap between registered events and police inquests and moreover the gap between inquest and that of penal processes that reached sentencing phase. Not surprisingly grew the feeling of impunity and a vicious cycle ensues: the more crime the less punishment the more violent crimes the less punishment for such offences. Demands for "order" grow accordingly: demands for preventive repressive policing, delegation of discretionary power to police forces, support for the death penalty survive in the democratization period. The survival of such authoritarian attitudes help to understand why police violence does not disappear as democracy is consolidated. This violence has acquired more visibility, it has been publicly exposed, internationally criticized but still it has not been eliminated and efforts to contain it seem to have had partial success in terms of quantity and of quality.

### ***Repressive crime control and the persistence of police violence***

To reduce violent crime, violent forms of control have been employed, often with disastrous results. Law enforcement agents, when acting under the pressure from "public opinion", tend to subscribe to a philosophy that the end justifies the means "repress crime at any cost", in this process instances where they express disregard for the right to life of suspects of crime (and often for those in the vicinity of the events) have not been the exception. By the end of

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<sup>9</sup> The lack of studies similar to those produced by Zaluar for Rio de Janeiro prevents reliable conclusions.

the 1980's and at the beginning of the 1990's, police violence escalated. There is consensus among police scholars and police practitioners that police violence and police corruption go hand in hand: a violent police force in general is a police force where corruption also thrives. What is being witnessed in Brazil is that the police forces here follow this trend. Police abusive use of force grew as grew denunciations of police involvement with all sorts of illegal activities: specially those that provided strong financial incentives such as those that drug dealers, kidnappers, cargo robbers and other forms of organized crime could provide. Parliamentary Commission investigating organized crime activities have highlighted over and over the involvement of police forces in all states of the federation and involving all levels of decision making.<sup>10</sup> Not surprisingly as well many members of the police forces have been accused of involvement of civil and military police with death squad and with vigilante groups. Although they are not new in the country<sup>11</sup>, the number of such groups seem to have more than doubled and become increasingly active in the years following the democratic transition. This has evolved not necessarily as a consequence of the political developments underway, but as the result of population growth and changes in the demographic and social composition of low-income classes living in poor neighborhoods of large Brazilian cities. Killings by the Military Police still occur and are officially excused as "a strict duty of obedience to job rules" or "resistance to arrest announcement". Unfortunately, there is no reliable data in Brazil. In the city of São Paulo, the number of civilians killed in confrontation with the police significantly increased in the period 89-92, while the number of policemen killed has remained unchanged (except for the period 1990-91 when there were sharp variations). In the last 15 years, 15 times more civilians have died in confrontations with the police. In 1992, 23 times more civilians than policemen. (NEV-USP, 1993). These tragic events seem to have

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<sup>10</sup> As recent as February 2000 there was the disclosure that the head of the Civil Police of the state of Parana, in the South of Brazil was involved with drug trafficking.

<sup>11</sup> The poverty of the data is such we know very little about the social origin of the members of such death squad groups, it is known that they act more often in the poorest areas of the metropolitan areas those more deprived of access to social and economic rights and that they have a mixed composition. Vigilante groups that act like organized lynching groups and that have as main target petty criminals that represent a source of annoyance, and sometimes of fear, to the neighbors can have a mixed composition- local inhabitants mixed with active or ex-policemen. Drug dealers have death squad groups to get rid of competition, to punish their own personnel when they "misbehave"- break the rules or when their behavior interferes with the running of the business or to give others (people in debt) what will happen to them. But police members also organize execution groups to be hired by some drug group to carry out executions (competitors or whomever is perceived as expendable) and also to guarantee their share of the business, furthermore police groups as well as organized crime death squads may act to eliminate witnesses. There is little systematic data collection about such groups in terms of Brazil but what there is indicates that such groups exist in most states of the federation as evidenced in the report on Human Rights (1999) and by the data bases of the Center for the Study of Violence.

had their climax with the massacre at the São Paulo Jailhouse (October 1992). The description of the events suggests — as two important reports indicate (Marques & Machado, 1993; Pietá & Pereira, 1993)<sup>12</sup> — that the police employed force which far exceeded the size of the rebellion they wanted to repress. It seems that the police force involved in the killing had no tactics, neither were they guided according to strategic intelligence recommendations. They did not seem to follow orders from a single, unified command, and therefore they did not try to save lives.

Since the 70s, the police forces have undergone administrative reforms to become equipped to fight “public disorder” in the cities. However, the “modernizing” measures have but little contributed to a level of operation compatible with the requirements of a democratic State subject to the rule of law. Neither have any such measures contributed to the effectiveness of preventive/repressive patrolling or judiciary police functions. Patrolling for visibility with a theatrical showing off of force (Fernandes 1989) has not completely disappeared. During electoral campaigns it is common to see candidates from various parties threatening to enhance this theater if they are elected. In addition to this, corruption in the police forces seems to have intensified in the last few years (Mingardi, 1992). The “cooperation” among small company owners, drug pushers and policemen (civil and military policemen) seems to form the basis of some parallel power competing with the public sector for the monopoly on legitimate physical violence, as recent warfare among gangs for drug traffic control suggests. This warfare exists at varying levels of intensity all over the country, although it is more visible in the city of Rio de Janeiro.

The abusive use of force by police forces in Brazil seems to be an endemic problem. While Brazil was mainly a rural country landlords and local politicians had total control over local police forces and as such over forms of repression (Leal, 1946). As result all forms of dissidence were locally controlled and common crime and popular demands were met with the same language

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<sup>12</sup> For other sources on police violence, see Pinheiro and others (1991) and Chevigny (1995) Data from the São Paulo State Public Security Secretariat suggests a decline in this type of violence specially after the Carandiru Massacre (October 1992), as a result of pressure from domestic and international public opinion. Figures from the São Paulo Police Ombudsman shows that killings by the police after having stabilized by 1997 began to grow by mid 1998. This growth continued in 1999. Numbers of police killed have also grown but about ¾ of these deaths happen when policemen are off-duty.

that of the use of force (Fernandes, 1976). Authoritarian regimes seem to give more strength to the endemic aspect of this abuse of force. If the police use illegal methods during regimes that are formally under the rule of law when rights are suspended such as in 1937 and in 1964 it is to be expected that the abuses would grow (Pineiro, 1987; Pineiro, 1991). The survival of this abuse, once the country has become mostly urban, when local politicians and landlords are no longer the only sources of power, when the control of the police forces is more formally in the hands of leaders that are elected by the people, when the media is attentive to abuses and denounces them and when international human rights monitoring groups keep such forces under their scrutiny is indeed surprising. Democratically elected governors, persons that have a history of commitment to the Rule of Law and whose political trajectory documents this respect for the laws still seem to fail to contain abuses perpetrated by police forces that are under their orders. This is well documented in the research in course at the Center for the Study of Violence and in the data base on police violence.

As mentioned before data being presented here was the result of a research project that led us to constitute a data base on police violence. The data base comprises of cases of police violence published by the national press since the 1<sup>st</sup> of January 1980. The following newspapers are used to inform the data base: *Folha de S. Paulo* (1980-to present), *Estado de S. Paulo* (1980- to present), *O Globo* (1980- to present), *Jornal do Brasil* (1980- to present), *Notícias Populares* (1980-1993), *Diario Popular*(1994- to present 1999) and *O Dia* (1999 to present). The use of the national press derives from the lack or the difficulties in the access to official data.<sup>13</sup> The press represents a good source of information about how culture is representing this form of violence. Still the press is a fragile source of information in quantitative terms and in terms of the reliability of the information. This source cannot be used to measure the size of the problem- but it can inform about more qualitative aspects of the phenomenon. The other problem is that at this point the official data cannot be considered fail proof either. There are serious limitations to the

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<sup>13</sup> The role of Police Ombudsman is new, in São Paulo the position was created in 1994, and at present there are five states in Brazil that have a police ombudsman. Publication of data about deaths caused by the police in the state official newspaper became mandatory (through legislation) also very recently.



official sources the most important being the lack of autonomy vis a vis the political powers as well as corporation loyalties that can exert much pressure on those in charge of providing information to the public. An example of such pressures was evidenced in São Paulo when in 1998 it was discovered that for 6 (??) years since the publication of the figures on deaths caused by the police had become mandatory that the figures had consistently been misrepresented by those in charge who had eliminated from the statistics deaths that had occurred during police confronts with persons suspected of having committed a criminal offense.

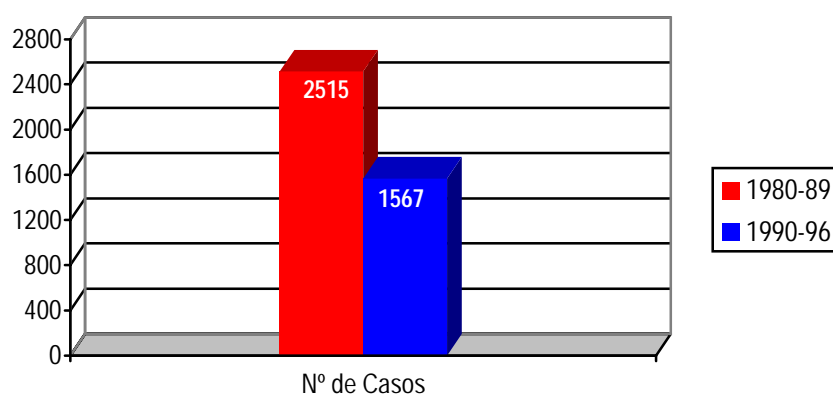
The press is an alternative source of information and one that allows the identification of the profile of the violence committed by police forces throughout the country and that is informing the production of public opinion about police forces. The actions described in the press will also contribute for the development and the continuous re-making of the image of: the police forces, the criminals involved in police action, the criminal justice process and finally of civil society in particular that of non-governmental organizations. The data collected allows for some comparisons: a) through time- the period covered; b) within the country- patterns of police violence by region; c) type of violence- torture, lethal violence, excessive use of force, abuse of power; d) contexts-on duty/off duty; legal exercise of force; illegal exercise; e) profile of persons victimized; f) consequences of the abuse of force-actions taken by authorities after the events- investigations, police inquests, discharges, public hearings etc; g) reaction of organized civil society. This presentation will focus on some of the results<sup>14</sup> for the period between 1980 and 1996. Data is available for the period 1997-1999, it has been fed into the database and tables are being processed but this data is not yet available in the same format (graphs) as the data for 1980-1996. The presentation will refer to it when necessary.

The distribution of police violence cases throughout Brazil, as reported by the press can be observed in the graph bellow.

**Graph 1: Number of police violence cases in Brazil for the period: 1980-1996**

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<sup>14</sup> The presentation that follows is based on chapters 7 and 11 of the research report (cf. Pinheiro, Adorno, Cardia et al, 1999) and on: Izumino, W.; Loche, A. and Cubas, V. Police violence: police duty bound actions. Report prepared for the Secretaria Nacional dos Direitos Humanos (National Secretariat for Human Rights). São Paulo: NEV/USP, 58p.



Source: Banco de Dados da Imprensa Sobre as Graves Violações dos Direitos Humanos. NEV/USP - Secretaria Nacional de Direitos Humanos/ MJ

There were 2515 cases of police violence reported in the press between the 1<sup>st</sup> of January 1980 and the 31<sup>st</sup> of December 1989 and 1567 cases between the 1<sup>st</sup> of January 1990 and the 31<sup>st</sup> of December 1996. At face value the numbers would suggest a drop of about 40% of cases of police violence were it not for the fact that the first set of data refers to a 10 year period whereas the second to a 7 year period. This drop is just apparent as numbers for the period 1997-1999 show that the total figure for the last decade is similar to that of the previous one. Still the numbers surprise for in this period not only did the population grow but so did violent crime grow (as shown in the previous section) and at rates never seen before. With the growth of violent crime it was expected that the probability of policemen interacting with suspects or with potential also grew as did the social and sometimes political pressures on them to clear cases quickly. Opportunities and incentives (low-pay) for police corruption were also more numerous. Thus it would be expected that all else being equal the numbers for the two periods would be different- and considering historical trends-the period between 1990-1996 should in fact be much higher. The fact that total number of cases in the two decades remain approximately the same suggests that there is improvement in this problem albeit its persistence.

Other hypotheses for the smaller number of cases in the period of 1990-1996 will be examined. It is possible that police violence being so endemic has acquired a no-news connotation for the press and that journalists simply lost interest in cases involving police violence. Since newspapers have limited amount of space there is much competition for that space and this competition

was fierce at the beginning of the 1990's when the political and economic scene could have monopolized the attention of the press. In particular in the first two years: the threat of hyperinflation, successive highly unpopular economic plans and the investigations by Congress and finally the impeachment of the first president (1990-92) in 30 years elected by popular vote. Corruption was ingrained in the administration (Schilling, 1999). The Franco administration that followed (Itamar Franco, 1992- 1994) had to face at least three major challenges: 1) to distance from the early connections with the Collor de Mello administration; 2) to regain control over the administration eliminating foci of corruption; and 3) to control inflation and continue with the economic reforms: opening the markets to global investments that were to result in profound changes to the industrial and financial sectors. Furthermore it had to ensure that the change in power scheduled to take place with general elections in 1994 would be carried out with due respect for the laws. The dispute for the presidency not only was very intense but meant that two candidates one from the left and the other from the center-left were to compete: Luis Inácio Lula da Silva, representing the Workers Party (Partido dos Trabalhadores – PT) and Fernando Henrique Cardoso, representing the Brazilian Social Democratic Party (Partido da Social Democracia Brasileira – PSDB).

The presidential campaign could be a magnet for the press that would focus its interest in the campaign. When the data for the period 1990-1996 is examined year by year it becomes clear that the distribution of cases varies through the years. The hypothesis of the media's selective attention to police violence does not seem to hold. Cases of police violence peaked in 1992 –the year of the impeachment of President Collor de Mello, also the year when inflation was getting out of control. In 1992 not only did police violence peaked, but a number of other gross human rights violations as well: lynching, death squads, rural violence (as reported by the Catholic church). 1992 was also a record year for police killings in São Paulo and the year closed with the Massacre of the Carandiru Penitentiary where after a fight between rival groups of inmates fought the Military Police riot squad killed 111 of the prisoners. Other high profile cases of police violence took place in the 1990's. In Rio de Janeiro there were: in the favela Acari, 11 adolescents disappeared after been taken by

men who identified themselves as policemen; the Candelária square 8 street children were executed by policemen (1994), in the favela do Vigário Geral (19??) when 13 people were killed. In São Paulo, evictions such as Fazenda da Juta resulted in 3 people (?) killed, police violence, killing, torturing and extorting money was filmed by video and shown to the country at the Favela Naval (1997) and in 1999 military policemen abducted, tortured and executed 3 adolescents- Santos/São Vicente. In the North of Brazil two high profile cases also happened in the 1990's: Corumbiara (1995) in the state of Rondonia were the eviction of landless peasants resulted in 11 persons killed and Eldorado dos Carajas (1996), in the state of Para, where 19 landless peasants were killed. Police violence did not disappear from the newspapers amidst the political campaigns.

The second hypothesis refers to the pressures by human rights groups. Since the second half of the 1980's human rights movements flourished throughout the country. In cities such as Recife, Porto Alegre, Rio de Janeiro, São Paulo, Belo Horizonte, Salvador and in the rural areas in particular the movements in defense of landless peasants and to delimit the indigenous population lands. Grievances became broader and the pressure on government intensified. The impunity of those thought to be responsible for gross human rights violations and in particular that of law enforcement agents was mobilizing activists in the movements. The persistence of the violations and the commitment of participants in the movements resulted in some advances to contain the violations. This became visible in the later half of 1990's when a number of measures and legislation were designed and implemented to reduce police violence: the National Human Rights Program (1996) that resulted in the implementation of police ombudsman offices, in incentives for the adoption of new forms of policing (such as community policing), for re-training police agents, for reforming the organizational structure. In 1996 after the massacre in Eldorado dos Carajas, the Military Police lost its right to be tried only by military courts (approval of the law 9.299/96) and in 1997 after the violence video taped at the favela Naval the crime of torture- previously classified as serious bodily injure, was classified as a crime in itself and the actions that characterize it described in the law (approval of law 9.455/97).

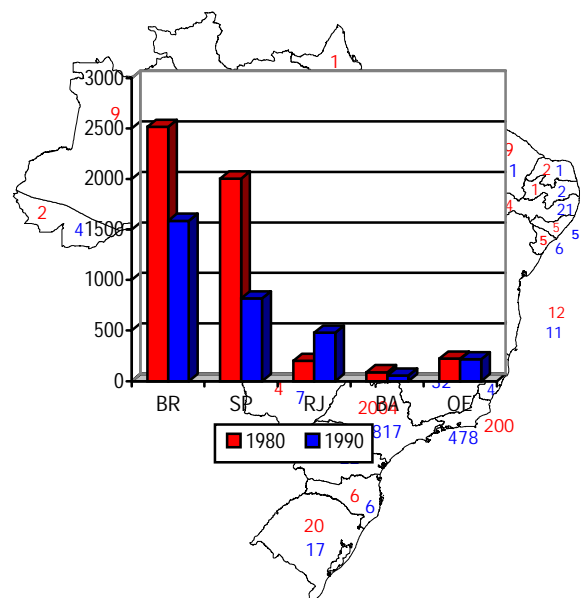
Since the early 1990's Human Rights Commissions had been organized in the National Congress and at local state congresses. State governments were further pressured by the media, by non-governmental organization (local and international) and by public opinion- domestic and international. The fact that Brazil was continually present in human rights reports as a country where much abuse occurred was a motive for shame. The states differed in the sensitivity and in the response to the pressure: in the state of São Paulo a number of measures were taken after the Carandiru massacre such as mandatory removal of police officers involved in shootings from their functions as well as the need to enroll in re-training and in psychological supervision.

The persistence of gross human rights violations did much damage to the country's image abroad and provoked much pressure for punishment at a time when the country needed to have the confidence of foreign investors and to do so needed to show full respect for the law.

It is possible that all the factors listed above contributed to the drop in the number of cases. It is also possible that the pressure exerted on the police forces by the abuses resulted in greater discretion in their modus operandi. This hypothesis would have to be examined jointly with the growth of massacres attributed to drug wars and to killings that suggest executions by unknown groups (unsigned executions as opposed to signed ones a trade mark of death squad groups).

As mentioned before despite this drop abusive police violence persisted throughout the country as shown in the map below.

Map 1: Distribution of cases of police violence by state.  
Brazil, 1980-1996



Source: Banco de Dados da Imprensa Sobre as Graves Violações dos Direitos Humanos - NEV/USP -Secretaria Nacional de Direitos Humanos/MJ

The state of São Paulo presents the higher number of cases. With 35 million inhabitants this is the most populous state (21% of the country's population) in the country having as well the largest police force: approximately 35.000 Civil policemen (the judiciary police) and 85.000 Military policemen (preventive police). Population growth for the period studied (1980-1997) was 2,0% a year slightly larger than the national average (1,8%). The state of São Paulo differs from other Brazilian states in most socio economic and quality of life indicators <sup>15</sup>.

Throughout the 1990's Brazil suffered profound economic changes that are related to the growth of violent crime and to the persistence of police violence: the concentration of income was maintained- in the state of São Paulo the 10% poorest group had 1,3 % of the wealth while the 10% wealthiest had 43,4. This concentration is greater at the national level.<sup>16</sup>

Despite the intense changes in the industrial sector that took place in the 1990's São Paulo continues to hold a key position in the generation of wealth in the country. All these positive indicators presented co-exist with high criminal violence and institutional violence.

For the period 1980-96 the data base shows that there were at least 2821 cases of police violence reported by the press. This represents 69,1% of the total number of cases at national level. The majority of cases happened in the 1980's similarly to what was seen in the rest of the country. There are signs that the drop in institutional violence may have been more intense in the state of São Paulo.

According to Izumino et al (1999), this reduction could be attributed to changes introduced by the Military Police: "implementing professional re-training. Such programs adopted in 1992 immediately after the Carandiru

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<sup>15</sup> Such as: i) presenting a higher population density (141 inhabitants per square kilometer while the national rate is that of 19 inhab per square kilometer) km<sup>2</sup>; ii) being more urbanized (93% of the population in urban areas against the national average of 78%); iii) presenting a better Human Development Index than the rest of the country (0,867 in 1995 as opposed to the country's 0,809; iv) having the most developed economic social and industrial infrastructure- by 1995 while 98% of the state's population had access to treated water the national average was 90% the discrepancy between the state and the country was more marked in respect to sewerage in the state of São Paulo 82% of the population had access sewerage, while only 40% of the country did., v) the state of São Paulo also presents a per capita income that is 50% higher than that of the country: US\$6.990,00 against US\$ 4.550,00 [Cf. Seade, 1998].

massacre served as important tools to reduce police violence in the state of São Paulo. To this end also contributed the creation of the police Ombudsman whose duty is to register complaints about police abuse both of Civil and Military police members, and to inform the judiciary about such complaints” (p.6).

The rate of police violence per inhabitant dropped from 5,72 cases per 100.000 inhabitants (1980-89) to 2,33 per 100.000 inhabitants (1990-96). Still when considered the size of the police forces the rate of police violence per 1000 policemen is not negligible: 6,5 cases per 1000 policemen for the period 1990-1996.

If in São Paulo there was a reduction in cases of police violence as reported by the press, the opposite occurred in the state of Rio de Janeiro: while in the 1980's the press reported 200 cases of police violence between 1990-1996 there were 478 cases reported. This represents an increase by 240% in reported cases. It is possible that such differences express differences in the policies adopted by different state administrations. Throughout the 1990's the state of Rio de Janeiro as mentioned before was the scenario of many high profile cases of police violence. It was also the focus of media attention due to the growth of violent crime. During this period Rio consolidated an image of the most violent region of the country, despite national statistics denying that. The prevailing image of Rio became that of the drug traffic wars in the favelas on the hills- involving rival groups, policemen and criminals and so forth, of cinema like kidnappings carried out at in broad day light in densely populated areas, of the stray bullets that could kill totally innocent people who were not even aware there was a gunfight in their neighborhood. The events because new and apparently unpredictable gave Rio an image of a place that provoked fear and insecurity because the violence there was uncontrollable.

The escalation of violence led public opinion makers to pressure the authorities to adopt short term high impact measures to contain criminal violence in particular the one associated to the drug traffic. As result in 1994 an agreement was reached between the state government and the Armed Forces by means of which the Armed Forces accepted to help the state police forces in drug and arms searches. This was known as “Operação Rio”, (Operation Rio)

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<sup>16</sup> To illustrate the how distorted this distribution is a comparison can be drawn with the U.K. where the 10% poorest

and was described as “marked by tortures, arbitrary arrests, searches without court warrant, and in at least one instance by unnecessary use of lethal force” (Human Rights Watch, 1997).

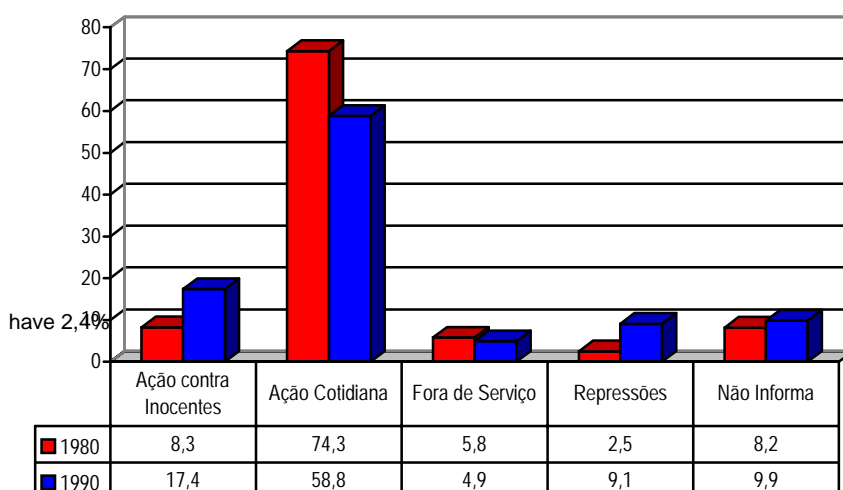
Shortly after the state government introduced a program of financial incentives for police officers formally entitled: “rewards for brave acts” and informally known as “Western rewards” after the gunfights US deputies and Sheriffs were involved in Western films. This type of reward is considered (Izumino et al, 1999) to have encouraged police violence. It is highly likely that policemen – Military policemen in particular interpreted this move by the state administration to act without legal or institutional constraints.

By the end of the decade two trends of police violence became clearer: one trend towards the decline of the reporting about the use of force and the other the persistence of violence representing a challenge to the civilian control of public security and jeopardizing democratic consolidation. The broader societal scenario is also complex: on the one hand there is pressure from some segments in society –in particular that of part of public opinion makers - for police violence in order to control violent crime and on other for the consolidation of civilian control over public security.

In the following section an analysis of the profile of police violence is drawn in order to further explore the reasons for the persistence of this violence within an otherwise democratic society.

What type of police action is more prone to result in violence? The cases reported by the press can be classified in one of five types of action: routine policing; actions that reveal errors of judgement –against innocents; policemen acting off-duty; repression against demonstrators; and actions in riots in jails or penitentiaries.

Graph 2: Distribution of cases of police violence by type of police action



Brazil, 1980-1996



Source: Banco de Dados da Imprensa Sobre as Graves Violações dos Direitos Humanos. NEV/USP - Secretaria Nacional de Direitos Humanos/MJ

Most cases of police violence reported in the press refer to routine police action. This type of action is defined as: “all interventions by armed policemen while on duty and in the legal exercise of their duties. It includes military and metro policemen while on preventive patrols, the judicial and the federal while investigating criminal offenses. Routine police violence also includes cases of torture in police precincts and in jails while interrogating suspects in order to obtain evidence against the victim of the torture.” (Izumino e outros, 1999, p. 4). This type of violence prevailed during the 1980’s and still survives representing more than half of police violence (58,8%).

Part of the violence by Military policemen takes place confrontations between policemen and civilian suspected of some wrongdoing. The context for confrontations are the routine patrols in poor areas or in densely occupied areas in particular in the working class areas- places where policemen feel more vulnerable despite the fact that most policemen are recruited from this same group. Patrols vary: some are really routine driving by, others attract more attention because of the number of cars and police personnel involved: the search patrols- when houses are broken into without a court warrant. In both contexts illegal methods are applied- constraints, threats, excessive use of force are all applied to restrain and to immobilize citizens that for some reason were deemed to be suspects.

It is not uncommon for policemen to execute suspects as a result of what on their perspective was a case of “resistance to police orders followed by death”. In this perspective police action is justified. Analyzing data concerning the state of São Paulo Pinheiro et al (1991) reveal that policemen are in fact responding to instructions to contain criminals at any cost which implies in shooting to kill instead of shooting to immobilize. A recent study in Rio de Janeiro, by Cano (1998) demonstrates that in Rio this type of policy still prevails. Deaths in confrontation are mostly motivated by crimes against property and happen to a large extent as “the result of an arbitrary police force

that decide “to do justice with its own hands” (HRM/Americas, 1994 *apud* Neme, 1997).

Barcellos (1992), a journalist writing about the Military Police in a São Paulo already indicated the lack of causality between police violence and the reduction of crime in particular violent crime. A point also made by Chevigny (1994), in his study about police violence in São Paulo, Rio de Janeiro, Buenos Aires, México, Nova York and Los Angeles. Thus abusive and excessive use of force seem to have no relation with violent crime control, and as such with public order and security or peace for the population. This type of abuse is not either an occasional practice of police forces acting under duress. To the contrary it seems to be highly institutionalized in the structure of the organizations inbred in the selection and training processes and an integral part of the corporation and of the professional identity.

The second most frequent type of context for abusive violence is that of actions that reveal errors of judgement: against innocents. These are the cases when the “victim is mistaken for a suspect” (Izumino e outros, 1999, p.4) a type of action that is an unfortunate consequence of policies that encourage “shoot first and ask questions later” behaviors. This type of action also involves routine operations in particular those is planned operations the difference being that in this case the victim of police action had no police record and was not accused or suspected by neighbors of any wrongdoing. This type of action that produces innocent casualties is the one that most grew during the 1990’s totaling 17,4% of the cases reported by the press in this period. Another study focusing on children and adolescents as victims (Mesquita, 1996) confirms this pattern showing that they are mostly victimized by police forces in this type of context.

In sum if the abusive use of force is in decline violence against citizens not suspected of any wrongdoing is more severe. It not that violence against persons with criminal record is more acceptable than that against innocents, what is to be highlighted is that this violence reveals the poor training and the inability of these policemen. It is odd that police organizations fashioned after the military model and that pride themselves for being highly organized, hierarchical and that approach the task of dealing with urban criminality with the

metaphor for dealing with war, that value military tactical and strategic procedures, and whose training is supposed to emulate that of the Army should act in such way - lacking strategy and frequently expressing lack of any planning and thought. Their behavior is incompatible with the operational efficiency that is expected of law enforcement agencies in a state of Rule of the Law.

Action that reveal errors of judgement are repetitive actions and the analysis of the profile of their victims shows that the innocent victims are poor citizens and whose social status is explicit in their clothing and looks. This pattern of victims indicates that for certain police forces there is little or no difference between being poor and being a criminal. Poverty is then taken as a clear sign of danger. The actions are repeated and the number of innocent victims also because this type of error is not identified as a problem- as errors that must be avoided, as something that embarrasses or shames the police forces. Accepted by the police forces as part of their occupation this type of action also does not seem to provoke public clamor. Shown in news programs on the radio and on television they do not evoke angry responses from citizens.

It is also very important that part of police violence happens while they are off duty. Off duty is defined as: “ the contexts in which the policeman acts to stop a criminal act while off duty or while moonlighting” (Izumino et al. 1999, p.4). Policemen be it of the Civil or of the Military force all have a peculiar work schedule: a 24 hours shift followed by a 36 hours rest period. Low wages provide an incentive for holding a second job: in commerce as taxi drivers and more recently and more often as private security. In such occupations they are as exposed as others to daily violence as victims and or as witnesses and may be encouraged to intervene as if on duty. Also off duty policemen may be recruited by persons who are victims of theft or robbery to help find the culprits. They may also be called to mediate conflicts within families and between neighbors aware of their status as policemen.

The reporting of violence while off duty fell during the 1990's period from 5,8% of the cases of police violence to 4,9% of the cases. Data for São Paulo (police Ombudsman) and for Rio de Janeiro (ISER, 1998) concerning the loss of live of policemen show that about 2/3 of the deaths of policemen by homicide

occur during moonlighting as private security. These data also show that the numbers are growing. This suggests that policemen working off duty are more careful about using violence than they used to be but are also more liable to violence against them. Still the fact that roughly 5% of police violence happens off duty also suggests that for part of the police there is little difference between their public and their private roles. Being off duty would not deprive them of the exercise of power. It suggests furthermore that the organizational culture transcends the space of law enforcement as a public function to other spheres.

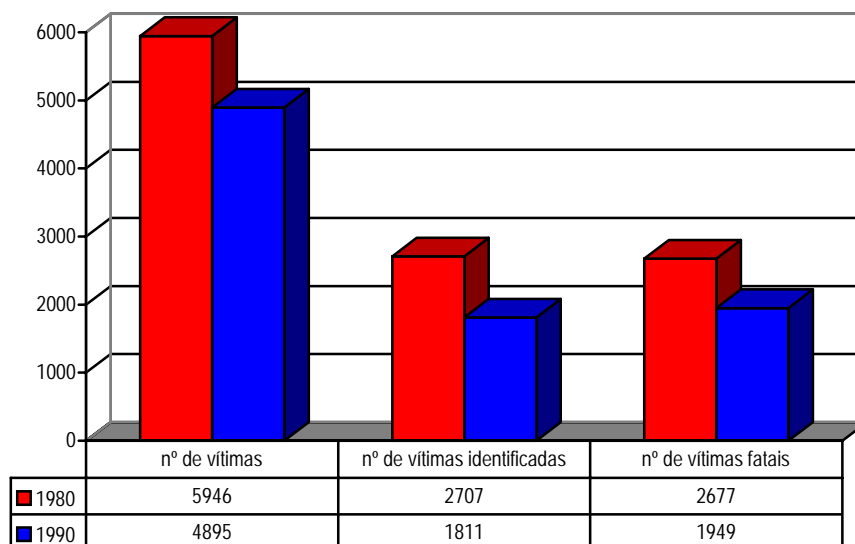
Violent police actions were also reported during the repression of prison riots and during public demonstrations. Graph 2 shows that reporting on police violence while in social control activities is growing (from 2,5% of the cases to 9,1% of the total). This represents a contradiction with democratic life. It was expected that once democracy is more strongly rooted in the culture that the more conflicts are brought out in the open and that such social conflicts will be perceived to have legitimacy and as such as having institutional channels for negotiations. (Dahrendorf, 1957).

Such expectations have been fulfilled: public demonstrations have grown. New movements with new forms of collective actions have emerged: landless peasants, homeless groups, ethnic groups, gender groups, environmental, the unemployed, etc. Also prison riots have increased in penitentiaries and in local jails. Police interventions to curtail demonstrations, riots or to evict people who are using the invasion of certain areas and of buildings to make a statement have often led to a number of casualties and even deaths. All could be avoided and the casualties and deaths again reiterate the lack of training that prevents policemen from presenting a different repertoire of tactical and strategic behaviors for different types of needs.

The data presented so far suggest that abusive or excessive use of force is not absent from police violence. The reports of police violence in the press are not homogeneous in terms of the quality and depth of the information. Some reports are very detailed while others (the majority) are very economical. Still two major findings from the data base indicate that there are strong indicators police violence in Brazil is the result of the use of excessive and even abusive

use of force. The graph that follows refers to the number of civilian victims reported in the cases that comprise the data base.

**Gráfico 3: Distribuição dos casos de Violência Policial segundo o Número de Vítimas, Vítimas Fatais e Vítimas Identificadas Brasil, 1980-96**



**Fonte:** Banco de Dados da Imprensa Sobre as Graves Violações dos Direitos Humanos. NEV/USP - Secretaria Nacional de Direitos Humanos/ MJ

The cases reported by the press reveal that between 1980 and 1996 at least 10841 persons were victims of the police of which 4626 were fatal victims. The identification of the victims by the press and the lethality of the police action varied in the two periods studied. Between 1980 and 1989 about 45,5% of the victims were identified, this percentage dropped in the 1990's to 37%. Lethal action was used against 45.02% of the victims in the 1980's and this dropped to 39,81%. This trend seems to be following the more general trend of decline of police violence. This violence which may or may not express the size of police violence in Brazil still provides enough information to strengthen the hypothesis that policemen in Brazil may be using excessive violence in their routine policing activities as the proportion of persons who are killed to that of persons who are wounded is very high. Out of 10 casualties in confront with the police 4 are fatal victims. The graph that follows shows the results in terms of casualties from each type of police action.

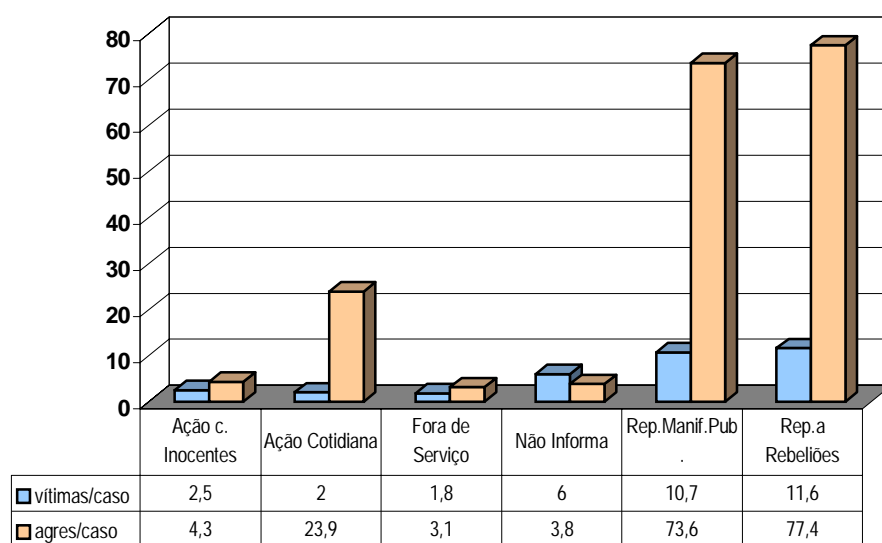
**Graph 4: Average number of casualties and of policemen according to the type of police action Brazil, 1990-96**

**Fonte:** Banco de Dados da Imprensa Sobre as Graves Violações dos Direitos Humanos. NEV/USP - Secretaria Nacional de Direitos Humanos/ MJ

Como se pode constatar, há uma verdadeira desproporção entre o número de agressores e o número de vítimas. Nas ações cujo alvo são cidadãos inocentes, é quase o dobro a proporção de policiais em relação às vítimas. Mais surpreendente é ver que o policiamento cotidiano mobiliza um número excessivo de policiais para conter um número bem menos expressivo de vítimas. A desproporção é bastante acentuada pois é dez vezes maior o número de policiais comparativamente ao número de vítimas. É de se perguntar se, por exemplo, são necessários vinte e três policiais para conter apenas duas vítimas. Essa tendência repete-se nas demais modalidades de ação. Tudo sugere que o uso abusivo e/ou excessivo de força física constitui rotina nas práticas policiais. Se é assim, é possível pensar que operações estratégicas desta ordem e natureza, sobretudo aquelas que envolvem inspeções de rotina cotidiana, orientam-se segundo duas motivações: o propósito de liquidar o suspeito, mais do que imobilizá-lo e contê-lo; e a finalidade de recorrer prioritariamente ao uso da força física em detrimento de outros recursos que possam ser mobilizados para igualmente alcançar o mesmo resultado, qual seja proteger cidadãos e preservar a ordem pública sob o abrigo da lei.

***Understanding Police Violence in Democratic Societies***

Certamente, violência policial - sobretudo através de uma de suas mais visíveis modalidades, o uso abusivo e/ou excessivo da força física - não é um problema exclusivamente brasileiro. Trata-se de um fenômeno contemporâneo que tem sido anotado, pela literatura especializada, em não poucos países, a maior parte deles em sociedades onde vigem regimes autoritários ou se encontram em processos de transição e consolidação democráticas. Na Índia, parece endêmico o emprego de tortura, assassinato e seqüestro de detidos, praticados pela polícia em conluio com o poder político, como instrumentos



usuais de controle social e coerção política (Ghosh, 1993; Sem, 1994). Nas Filipinas, não tem sido diferente. O

governo tem sido responsabilizado por nada fazer contra a persistente violação de direitos humanos pela polícia na era pós-Marcos, mantendo a impunidade dos agressores (Lawyers Committee for Human Rights, 1991). Impunidade e brutalidade também tem sido a tônica da polícia nigeriana (Lawyers Committee for Human Rights, 1992). Na África do Sul, o problema igualmente não tem passado despercebido. Palco de um dos mais complexos processos de transição política para a democracia no hemisfério Sul, esta sociedade vem conhecendo fenômenos muitos semelhantes aos verificados no Brasil contemporâneo: crescimento acentuado dos crimes, crise do sistema de justiça criminal, demandas por segurança privada para os ricos e de maior controle e vigilância para os pobres, respostas violentas da polícia (Shaw et al., 1997). De igual modo, na América Latina vários estudos ou relatórios de comissões de direitos humanos têm observado o fenômeno em quase todas as sociedades que compõem esse continente: México (Chevigny, 1995); Argentina (CELS,

1992; Chevigny, 1995); Venezuela (Birbeck e Gabaldon, 1996); Chile (Frühling, 1998).

Mesmo nas sociedades que compõem o chamado mundo desenvolvido, caracterizadas pelo predomínio do capitalismo afluyente, pelos elevados níveis de desenvolvimento tecnológico e de desenvolvimento humano, o problema ainda existe ainda que sua ocorrência seja menos freqüente e, quando ocorre, provoca estrondoso escândalo, comprometendo o desempenho e imagem das autoridades que se encontram à testa das agências policiais. Assim, desde 1968 e pelo menos até 1995, a imagem da polícia francesa vem sendo abalada por sucessivos casos de violência extra-judicial, racismo e sexismo (Rajsfus, 1996). Na Grã-Bretanha, o assunto é também recorrente. Baseado em estudo conduzido em Glasgow, entre 1982-88, Uildriks e van Mastrigt (1991) analisaram a violência policial no contexto britânico, abordando questões tais quais como reagir, prever, assegurar responsabilidade para os agressores, em suma, como garantir accountability. Reiner (1985) sugeriu o quanto a tradicional imagem da polícia britânica vem sendo perturbada por recentes escândalos, alguns dos quais envolvendo uso excessivo da violência física.

Mais do que em outros países, nos Estados Unidos o tema está sempre em evidência face à longa tradição de violência e desempenho incompatível com os regulamentos legais manifesto sobretudo pelas polícias estaduais. Um dos casos mais notórios é o de Rodney King, cidadão negro cujo maltrato pela polícia de Los Angeles foi gravado em vídeo, em 1991, por cinegrafista amador e exibido em cadeia nacional pela TV. Analisado por Skolnick e Fyfe (1993), o caso sugere o quanto o poder civil, mesmo em sociedades democráticas, ainda revelam dificuldades em exercer controle rigoroso e eficaz sobre a violência de suas polícias. A propósito, nos Estados Unidos, o tema já suscitou abundante literatura (Chevigny, 1969 e 1995; Fyfe, 1982; Geller & Scott, 1992; Pate e Edwin, 1991; Pate, Lorie & Edwin, 1993; Amnesty International, 1996; De Sanctis, 1994; Alpert e Smith, 1994; American Civil Liberties, 1997; Donner, 1990; Geller e Toch, 1996 entre outros). Dado inclusive a recorrência de casos, o Congresso americano incumbiu o Departamento de Justiça de realizar periodicamente o *National Data Collection on Police Use of Force*, o que tem



sido feito anualmente pelo National Institute of Justice que já publicou relatórios relativos aos levantamentos efetuados nos anos de 1995 e 1996.

O problema reside portanto em saber quais os limites do uso da força física em sociedades democráticas, o que leva a uma discussão mais abrangente sobre o modelo ou modelos de polícia compatíveis com o estado democrático de direito. Nas palavras de Skolnick e Fyfe, "as long as some members of society do not comply with law and resist the police, force will remain an inevitable part of policing. Cops, especially, understand that. Indeed, anybody who fails to understand the centrality of force to police work has no business in a police uniform. [...] The most critical is the question of escalating force: how much and with what instrumentality is force appropriate in the myriad situations officers confront on the street? State criminal laws distinguishing criminal conduct from acceptable use of force attempt to operationalize the distinction with admonitions to the effect that officers should use no more force than is *necessary or reasonable*, or that force should be used only as a *last resort*" (Skolnick & Fyfe, 1993, pp. 37-38). Não sem motivos, em seu clássico estudo sobre a polícia, Egon Bittner definiu a polícia moderna como "a mechanism for the distribution of non-negotiable coercive force employed in accordance with the dictates of an intuitive grasp of situational exigencies" (Bittner, 1990, p. 131)<sup>17</sup>.

Em seu esclarecedor estudo sobre a tradição policial britânica, Robert Reiner (1985) sugeriu que o prestígio deste modelo, implementado desde 1829, está fundado em alguns princípios, entre os quais o reino da lei, responsabilidade, o emprego mínimo da força e a ação predominantemente preventiva. No que concerne ao emprego da força, a polícia britânica se distingue das outras polícias europeias em virtude de restringir estritamente o uso de armas, em especial as armas de fogo, embora esse cenário venha se alterando após 1985. De qualquer modo, o respeito a tais princípios contribuíram para que, ao longo do tempo, o modelo britânico de polícia caminhasse cada vez mais em direção a um modelo civil caracterizado pela

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<sup>17</sup> Trata-se de um conceito que oferece problemas teóricos, conforme aponta Brodeur em sua análise da teoria de Bittner sobre a polícia (Brodeur, 1994).

estrita obediência à lei, por uma forte disciplina profissional, o que faz com que a polícia esteja antes de tudo a serviço da segurança e proteção dos cidadãos.

Certamente, um modelo civil desta ordem e natureza não se desenvolve às expensas do estado democrático de direito. A polícia não é uma instituição à parte da sociedade e do estado. Muitas vezes, o comportamento autoritário dos agentes policiais que se valem do uso abusivo ou excessivo da força física em suas atividades de controle social reflete organizações sociais nas quais o regime democrático não se encontra completamente consolidado. Nessas sociedades, o dilema entre eficiência e legalidade - "on the one hand, the state demands the highest degree of efficiency from its police, but on the other side it places such restrictions upon the activities of the police that it can be foreseen that the efficiency will be fairly low" (Sveri, 1995, p.38) - parece acentuar-se nessas sociedades. Nelas, o antigo modelo de organização policial - militarizado, centralizado, hierarquizado, orientado pelo uso da força física - ainda exerce peso e influência a despeito das reações da sociedade civil organizada, em especial de seus movimentos de defesa de direitos civis e direitos humanos, que pressionam e invocam reforma do aparelho policial como estratégia para compatibilizá-lo com o estado democrático de direito. Esse parece ser o cenário em que se insere a sociedade brasileira contemporânea.

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