

A photograph of a person in military attire holding a rifle against a wall. The wall is covered in yellow graffiti that reads "YOU KILLED MY SON". The scene is lit with a warm, orange light.

YOU
KILLED
MY
SON

**HOMICIDES BY
MILITARY POLICE
IN THE CITY OF
RIO DE JANEIRO**

**AMNESTY
INTERNATIONAL**



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Cover photo: Military Police in operation to take over territories in the favela complex in Rio de Janeiro, Caju. March 3rd, 2013.

YOU KILLED MY SON

Homicides by
military police
in the city of
Rio de Janeiro

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CONTENTS

6	EXECUTIVE SUMMARY
10	CONTEXT
14	METHODOLOGY
18	BRAZIL'S OBLIGATIONS UNDER INTERNATIONAL LAW
19	THE RIGHT TO LIFE
20	INTERNATIONAL PRINCIPLES ON THE USE OF LETHAL FORCE
24	EXTRAJUDICIAL EXECUTIONS IN THE CONTEXT OF THE WAR AGAINST DRUGS
26	HOW THE POLICE OPERATE IN BRAZIL
30	"RESISTANCE FOLLOWED BY DEATH" AND KILLINGS RESULTING FROM POLICE INTERVENTION
32	KILLINGS RESULTING FROM POLICE INTERVENTION IN RIO DE JANEIRO
38	EXTRAJUDICIAL EXECUTIONS, UNNECESSARY USE OF FORCE AND OTHER POLICE ABUSES IN ACARI
42	ACARI: CASES OF KILLINGS RESULTING FROM POLICE INTERVENTION IN 2014
44	"THEY COME IN SHOOTING"
46	"TROY": A ROUTINE FOR AN EXECUTION
49	"DID YOU HAVE TO KILL HIM? WHY DIDN'T YOU ARREST HIM?"
55	STRAY BULLETS, THE "CAVEIRÃO" AND THE USE OF HEAVY WEAPONS IN FAVELAS
58	FAVELA RESIDENTS AT RISK: OTHER POLICE ABUSES
66	IMPUNITY
71	CRIME SCENE MANIPULATION AND FLAWS IN INVESTIGATIONS
72	EXTERNAL CONTROL MECHANISMS AND ACCOUNTABILITY
78	WITNESS PROTECTION
80	THREATENING AND INTIMIDATING HUMAN RIGHTS DEFENDERS
84	CONCLUSIONS AND RECOMMENDATIONS
89	ANNEXES:
89	LIST OF ACRONYMS AND ABBREVIATIONS
90	LIST OF TABLES AND GRAPHS

EXECUTIVE SUMMARY

“YOU KILLED MY SON”: HOMICIDES BY MILITARY POLICE IN THE CITY OF RIO DE JANEIRO

This report by Amnesty International presents an exclusive investigation into extrajudicial executions, police killings and other human rights violations committed by military police in the city of Rio de Janeiro.

Extrajudicial executions at the hands of police officials are frequent in Brazil. In the context of the so-called “war on drugs”, military police forces have unnecessarily and excessively used lethal force, resulting in the deaths of thousands of people over the past decade. The authorities often use the legal term of “resistance followed by death” (translated from the Portuguese “autos de resistência” to refer to killings by on-duty police officers which are legitimated on the grounds of self-defence) as a smokescreen to cover up killings committed by the police officers.

This report is based on a series of cases of police killings that occurred during 2014 and 2015 in the city of Rio de Janeiro, particularly in the favela of Acari. Amnesty International conducted interviews with victims and their families, witnesses, human rights defenders, civil society organizations, public security experts and local authorities, and gathered details on crime scenes, registers of occurrence, death certificates, expert reports and police inquiries. Through this material Amnesty International uncovered signs of extrajudicial executions and a pattern of unnecessary and disproportionate use of force by the military police.

The Administrative Region of Public Security (AISP) number 41, which includes the Acari favela, has the highest record of killings resulting from police intervention in 2014, according to official statistics. It accounts for 68 recorded police killings from a total of 244 in the city of Rio de Janeiro. Ten of them occurred in Acari.

Amnesty International gathered evidence of 9 out of the 10 police killings in Acari suggesting extrajudicial execution by military police officers while on duty. In four of the cases, the victims were wounded or had already surrendered when police officers intentionally used firearms to execute them. In four other cases, the victims were shot and killed with no prior warning. In the ninth case, the victim was running away from the police when shot dead.

The use of lethal force by law enforcement officers raises serious human rights concerns, including with regard to the right to life. Brazil is under the obligation to prevent and punish criminal violence, while ensuring full respect of the right to life of all people under its jurisdiction, as enshrined in the International Covenant on Civil and Political Rights and the American Convention of Human Rights.

Brazil is the country with the highest number of homicides in the world: 56,000 people were killed in 2012. Negative stereotypes associated with the youth, especially black young men living in favelas and other marginalized areas, have contributed to the trivialization and naturalization of violence. In 2012 over 50% of homicide victims were aged between 15 and 29, and 77% were black.

Public security policies in Brazil are marked by repressive police interventions in marginalized communities.

The “war on drugs” to curb the illicit drug trade, particularly in favelas, and the lack of clear regulation on the use of heavy weapons and armoured vehicles in densely populated urban areas, increase the risk to the local population. The police has regularly justified its use of lethal force against citizens by their alleged involvement in criminal gangs. These large-scale militarized operations have resulted in a high death toll at the hands of the police.

Publicly available information shows that, in the city of Rio de Janeiro, of 1,275 registered cases of killings by on-duty police between 2010 and 2013, 99,5% victims were men, 79% were black and 75% were aged between 15 and 29.

The official narrative in police records consistently blames the victims, who are stigmatized by a culture of racism, discrimination and criminalization of poverty. Brazilian society typically legitimizes these deaths. The criminal justice system perpetuates the situation, by rarely investigating police abuses.

When a person is killed as a result of police intervention, an Administrative Register of Occurrence (RO) is filed by a civil police officer to determine if the killing was in self-defence or if a criminal prosecution is required. In practice, the “resistance followed by death” legislation hinders independent and impartial investigations, which otherwise may have determined whether the use of lethal force was legitimate, necessary and proportionate.

By listing all police killings as the result of a confrontation, the authorities effectively blame victims for their own death. Statements by police officers involved in killings generally describe a situation of confrontation with suspected criminals. This version then becomes the starting point of the police investigation. In cases where the police links the victim to criminal gangs, the investigation only seeks to support the testimony of the police [that the killing occurred in self-defence].

Over a 10-year period (2005-2014), 8,466 cases of police killings were registered in the State of Rio de Janeiro, including 5,132 in the city of Rio de Janeiro. Although the number began to drop in 2011, it increased by 39,4% between 2013 and 2014 in the state. The number of police killings represents a significant percentage of the overall amount of homicides: 15,6% in 2014 in the city of Rio de Janeiro.

The Acari favela has suffered for decades of police operations resulting in extrajudicial executions and other police abuses. The forced disappearance of 11 boys and girls from Acari in 1990 has marked the area's history. Although the 11 youth were never found, the investigation was closed and no one was brought to justice.

The lack of adequate investigation and conviction of the perpetrators of police killings sends a message that these crimes are tolerated by the authorities, which in turn fuels a cycle of violence.

When reviewing the status of all 220 investigations of police killings opened in 2011 in the city of Rio de Janeiro, Amnesty International found that after four years, only one case led to a police officer being charged. As of April 2015, 183 investigations were still open.

The individual cases documented by Amnesty International and presented in this report illustrate the failure of the Military and Civil Police and the Public Prosecutor's Office to investigate and curb poor policing practices. Amnesty International found that crime scenes are frequently altered, whereby police officers remove the body without due diligence and place weapons or forge other criminal evidence next to the body. In cases where the victim is allegedly connected to drug trafficking, the investigation tends to focus on the victim's criminal profile to legitimise the killings, instead of determining the circumstances of the homicide.

Witnesses of police killings rarely go to the police to testify for fear of retaliation. Deficiencies in witness-protection programmes and a lack of protection for human rights defenders contribute to a high level of impunity and poor investigations.

KEY RECOMMENDATIONS

Recent public security policies have failed to halt extrajudicial executions. The military police continues to use arbitrary, unnecessary and excessive force on a regular basis, with total impunity.

Authorities at both the state and federal levels should take steps to address police violence and impunity.

Amnesty International calls on the Rio de Janeiro authorities to take immediate steps to comply with their human rights obligations, including by:

- Guaranteeing a thorough, independent and impartial investigation into all cases registered as police killings, with a view to launching criminal proceedings against those who have committed an unlawful killing.
- Ensuring that all cases registered as police killings be investigated by the Homicide Division in thorough, independent and impartial investigations, with a view to launching criminal proceedings.
- Allocating the necessary human, financial and infrastructure resources for the Homicide Division to investigate all cases registered as police killings in an impartial and independent way.
- Condemning human rights violations in the context of police operations and sending a public message that the unnecessary and excessive use of police force will not be tolerated;
- Establishing a task force within the Public Prosecutor's Office that will prioritize the investigation of police killings, in order to conclude investigations and bring cases to justice where relevant.



Photo of a protest in Complexo do Alemão regarding the killings Eduardo, a 10 year-old boy, and other residents. [Rio de Janeiro, 04/04/2015]

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CONTEXT

Over the last 30 years, Brazil has experienced a severe public security crisis, with 56,000 murders recorded in 2012¹, corresponding to a rate of 29 homicides² per 100,000 inhabitants. In recent decades, the public authorities – at both the federal and state levels – have failed to adequately respond to the rising lethal violence in the country and implement effective public security policies, including measures aimed at reducing homicides and protecting the right to life.

Between 1980 and 2012, the annual number of homicides in the country increased from 13,910 to 56,337, while the homicide rate rose from 11.7 to 29.0, a 143% increase. The greatest rise occurred between 1980 and 1997, when the homicide rate stabilized at over 25 homicides per 100,000 people, remaining high since then³.

However, lethal violence in Brazil does not affect all members of society equally. Of the more than 56,000 victims of murder in Brazil in 2012, 30,000 were young people aged between 15 and 29 years⁴. 90% of those young victims were men and 77% were black⁵. Racial discrimination and the resultant inequality mean that the black population, particularly young black people, face a situation of structural discrimination where their rights to access higher education, health, work, decent housing, and so on, have been seriously impaired⁶.

HOMICIDES IN BRAZIL, IN 2012

54%

ARE **YOUNG**
AMONG THEM

90%

ARE **MEN**

77%

ARE **BLACK**

¹ The source of the data on homicides is Datasus (IT Department of the Unified Health System, Ministry of Health), which contains statistics on intentional violent deaths in Brazil, collected by the Mortality Information System to obtain regular information about mortality in the country. This data was presented in: WAISELFSZ, Julio Jacob. Map of Violence 2014 – Young people of Brazil. Brasília/DF: FLACSO (Latin American Faculty of Social Sciences); Secretariat for Policies to Promote Racial Equality; National Secretariat for Youth; General Secretariat of the Presidency, 2014. Available at: <http://www.mapadaviolencia.org.br/pdf2014/Mapa2014_JovensBrasil.pdf>. Accessed on: 25/06/2015.

² “Homicide rate” is the number of homicides per 100,000 inhabitants. In this report, the term “homicide rate” always has this definition.



³ According to the World Health Organization (WHO), a homicide rate above 10 is considered an epidemic. See: UNDP, Summary Regional Human Development Report 2013-2014 – Citizen Security with a human face: evidence and proposals for Latin America (p. 1).

⁴ In Brazil, Federal Law No. 12,852 of 5 August 2013 classifies people between 15 and 29 years of age as “young people”.

⁵ In Brazil, for statistical purposes, the category “black person” or “black population” corresponds to the combination of the statistical categories “black” + “brown”. The Brazilian Institute of Geography and Statistics (IBGE) has five classifications for race/colour: white, black, brown, yellow and indigenous. For the formulation of social indicators broken down by race/colour, race relations specialists and public and private research institutes represent Brazil’s black population by combining the two aforementioned categories.

⁶ See: Institute of Applied Economic Research – IPEA (2007) Social Policy Bulletin – Acompanhamento e Análise No. 13, Edição Especial, Brasília: IPEA.

TABLE 1. Homicide rates among young people in some Brazilian capitals in 2012

	WHITE YOUNG PEOPLE	BLACK YOUNG PEOPLE
		
Recife	13,9	185
Maceió	24,3	327,6
João Pessoa	14,4	313
Belém	10,7	134,6

SOURCE: MAPA DA VIOLÊNCIA 2014 – OS JOVENS DO BRASIL

The situation of discrimination faced by black young people has impacted protection of their right to life. In 2012, the overall homicide rate among young people was 57.6. However, the difference in the homicide rate between white young people and black young people in some capitals is striking: in Recife, the homicide rate for white young people was 13.9, compared with a rate of 185.0 for black young people; in Maceió, the respective rates were 24.3 and 327.6; in João Pessoa, the rates were 14.4 and 313.0; and in Belém they were 10.7 and 134.6.

For many years, Rio de Janeiro was the state with the highest homicide rate in Brazil. In 2002, the homicide rate in the state as a whole was 56.5 and in the capital it was 62.8. There was a significant reduction between 2002 and 2012, with the rates in the state and the capital falling to 28.3 and 21.5, respectively, although they are still well above the worldwide average⁷.

The wide availability of firearms in the country⁸, the presence of organized crime and the lack of a national public policy to reduce homicides are factors that contribute significantly to the high murder rate in general. Meanwhile, the trivialization and normalization of violence in Brazil, especially violence against certain historically discriminated groups, has generated a number of negative stereotypes associated with black people, especially young black favela dwellers.

Consequently, part of Brazilian society is indifferent to deaths of black young people, the main victims of homicides in the country. Police officers are responsible for a significant percentage of homicides in Brazil. In addition to the killings committed by police on duty, it is believed that a large number of deaths are also caused by death squads and militias made up primarily of Civil and Military Police, as well as other agents of the state⁹.

National and international organizations have been documenting cases of extrajudicial executions and excessive use of force by law enforcement officials in Brazil for many years¹⁰. Extrajudicial executions are

often committed by on-duty law enforcement officers, who kill crime suspects instead of arresting them and bringing them before the courts.

In the first review of Brazil by the United Nations Human Rights Committee, in 2005, concern was expressed about the “widespread use of excessive force by law enforcement officers and extrajudicial executions”¹¹.

The re-democratization of Brazil, which gave rise to the 1988 Constitution – known as the “Citizens’ Constitution” –, failed to bring about changes in the structures of Brazil’s public security and police forces, resulting in corps that are out of line with the rule of law and the requirements of a plural and diverse democratic society.

Public security policy in Brazil is excessively marked by repressive police operations, justified by the logic of the “war on drugs”, leading to a high number of deaths from police action¹².

In Rio de Janeiro and various other Brazilian states, since the 1990s, a model of action has been adopted by police forces that places an emphasis on the repression of drug trafficking through one-off operations and raids in favelas and peripheral neighbourhoods where illegal selling of drugs takes place. This trade in illegal drugs is controlled by criminal gangs and organizations which usually have a strong armed presence in the areas where they operate. This reality has served as a pretext to feed a narrative of war that portrays the favelas as spaces to be won back from an enemy army (the trafficking trade).

The illegality of the drugs trade also stimulates police corruption. Indeed, the payment of so-called “arregos” – periodic kickbacks paid by drug traffickers to the officers responsible for policing a given area – is common practice in the city of Rio de Janeiro¹³.

One of the results of this approach to public security policy focused on the “war on drugs” in Brazil, and especially in the city of Rio de Janeiro, is the high number of extrajudicial executions carried out by Civil and Military Police during operations in favelas and peripheral neighbourhoods. These executions are rarely investigated and, in general, go unpunished¹⁴. Those responsible are seldom brought to justice and the vast majority of the victims do not obtain any kind of reparation. This impunity feeds the cycle of violence that characterizes police operations in the country.

According to the Final Report of the Parliamentary Commission of Inquiry of the Legislative Assembly of Rio de Janeiro State, completed in November 2008 after investigation of the activities of militias in Rio de Janeiro, around 171 communities in the state are under the control of militias. According to Zaluar and Conceição (2007), the militias are made up of police officers and former police officers (mainly military), a few fire fighters and some prison officers, all of whom have military training, belong to institutions of the state and take it upon themselves to protect and provide ‘security’ in neighbourhoods supposedly threatened by criminals. Territorial control, which takes the form of military occupation, is perhaps the most important characteristic of the phenomenon of the militias in Rio de Janeiro. The militias levy (unlawful) charges on alternative transport cooperatives, encourage the sale at inflated prices of gas cylinders and illegal cable TV services, and demand tolls and fees for protection. According to the authors, the militias have been trying to occupy increasingly large spaces in the municipal and state legislative and executive, building networks within the public administration and even the judiciary. See: ZALUAR, Alba; CONCEIÇÃO, Isabel Siqueira. Favelas sob o controle das milícias no Rio de Janeiro: que paz? São Paulo em Perspectiva, São Paulo, Fundação Seade, v. 21, No. 2, p. 89-101, Jul./Dec. 2007. Available at: <http://produtos.seade.gov.br/produtos/spp/v21n02/v21n02_08.pdf>. Accessed on 25/06/2015.

DEATHS SQUADS

Deaths squads are mainly composed of serving or retired Civil and Military Police, or officers who have been expelled from the forces, in addition to other law enforcement officials. According to the Final Report of the Parliamentary Commission of Inquiry of the Chamber of Deputies on exterminations in the northeast of Brazil, completed in November 2005, death squads “kill with cold-blooded cruelty, burning and butchering the bodies of the victims”. They are formed as strategies of shopkeepers, business owners, politicians and other sectors to get rid of social groups viewed by them as undesirable, and are becoming the armed branch of organized crime, killing to defend the interests of criminal organizations in Brazil’s north-eastern region.

⁷ The World Health Organization (WHO) estimated that, in 2012, the global homicide rate had decreased by 16% since 2000, to 6.7 homicides per 100,000 inhabitants; this rate excludes deaths in contexts of armed conflict. See: WHO, “Global Status Report on Violence Prevention”, p. 8.

⁸ In 2005, there were an estimated 15.2 million firearms in private hands in Brazil. See: WASELFSZ, Julio Jacob. Deaths by firearms: Map of Violence 2015. Brasília/DF: 2015. Secretariat for Policies to Promote Racial Equality; National Secretariat for Youth; General Secretariat of the Presidency. Available at: <<http://www.mapadaviolencia.org.br/pdf2015/mapaViolencia2015.pdf>> Accessed on: 03/07/2015.

See also: DREFUS, P.; NASCIMENTO, M.S. Small Arms Holdings in Brazil: Toward a Comprehensive Mapping of Guns and Their Owners. FERNANDES, R. ed. Brazil: The Arms and the Victims. Rio de Janeiro: Letras/Viva Rio/ISER, 2005

⁹ See also the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a mission carried out in Brazil in 2007, A/HRC/11/2/Add.2.

¹⁰ Amnesty International: Beyond Despair: An agenda for human rights in Brazil (Index: AMR 19/15/1994); Candelária and Vigário Geral 10 years on (AI Index: AMR 19/015/2003); “They come in shooting”: policing socially excluded communities” (AI Index: AMR 19/025/2005); “We have come to take your souls: the caveirão and policing in Rio de Janeiro” (Index AI: AMR 19/007/2006).

Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Brazil, A/HRC/11/2/Add.2.

Justiça Global e Núcleo de Estudos Negros. Execuções Sumárias no Brasil: 1997-2003. September 2003. Available at: http://www.ovp-sp.org/relatorio_just_global_exec_97_03.pdf Accessed on 18/06/2015.

Justiça Global e outros. Os muros nas favelas e o processo de criminalização. May 2009 Available at: <<http://global.org.br/wp-content/uploads/2009/12/Relat%C3%B3rio-Os-Muros-nas-Favelas-e-o-Processo-de-Criminaliza%C3%A7%C3%A3o.pdf>> Accessed on 18/06/2015.

¹¹ Concluding observations of the Human Rights Committee of the United Nations to Brazil, on 01/12/2005. Considerations of the reports submitted by the States Parties on Article 40 of the International Covenant on Civil and Political Rights. CCPR/C/BRAVCO/2.

¹² See notes 11 and 14.

¹³ This practice was confirmed by several of the people interviewed for this study.

¹⁴ See: MISSE, Michel et al. Quando a polícia mata: homicídios por “autos de resistência” no Rio de Janeiro (2001-2011). Rio de Janeiro: Booklink, 2013.

METHODOLOGY

The main objective of the study by Amnesty International was to analyse a series of cases of deaths caused by the Military Police in the city of Rio de Janeiro, examining evidence of extrajudicial executions and the extent to which police officers have been using unnecessary, excessive or arbitrary force.

The research that gave rise to this report was carried out between August 2014 and June 2015, and drew on primary and secondary sources of data and information, field visits, and interviews with victims, families of victims, witnesses, human rights defenders, representatives of civil society organizations, and specialists and authorities in the area of public security.

In order to contextualize and delimit cases of homicides caused by police in official operations in the city of Rio de Janeiro, the statistics available in Brazil on homicides in general and homicides resulting from police intervention in particular were analysed, with a focus on the city of Rio.

The data on homicides in general was obtained through searches¹⁵ of the information held in the Datasus database of the Ministry of Health.

The data regarding homicides resulting from police intervention in the state of Rio de Janeiro, for the period from 2005 to 2014, was obtained from the Institute of Public Security (ISP)¹⁶, which regularly publishes information about crime indicators on its website¹⁷.

On request, Amnesty International obtained data from the ISP broken down by age, sex and race/colour relating to incident reports¹⁸ for intentional violent deaths¹⁹ in the city of Rio de Janeiro, including killings resulting from police intervention, in the period from January 2008 to December 2013.

Amnesty International also had access, through one of its sources, to the number, date, police station and status of all records of killings resulting from police intervention in the city of Rio de Janeiro in 2011, to verify the progress of the investigation into each one and ascertain how many had been brought before the

¹⁵ Research recorded in the "Map of Violence 2014 – Young people of Brazil" (see note 1 of this report).

¹⁶ The Institute of Public Security (ISP), which is linked to the Secretariat for Public Security of Rio de Janeiro State, was set up in 1999 with the aim of systematizing data, producing research and undertaking criminal analyses, with the aim of supporting the implementation of public security policies and ensuring social participation in the corresponding initiatives.

¹⁷ www.isp.rj.gov.br

¹⁸ Incident reports, prepared by the police authorities, are the first record of a criminal violation, and may give rise to an investigation.

¹⁹ Intentional violent deaths include reports of homicide, armed robbery followed by death, bodily injury resulting in death, killings resulting from police intervention-resistance followed by death, and Civil and Military Police officers killed in the line of duty. Records of the finding of mortal remains or corpses have not been taken into account.

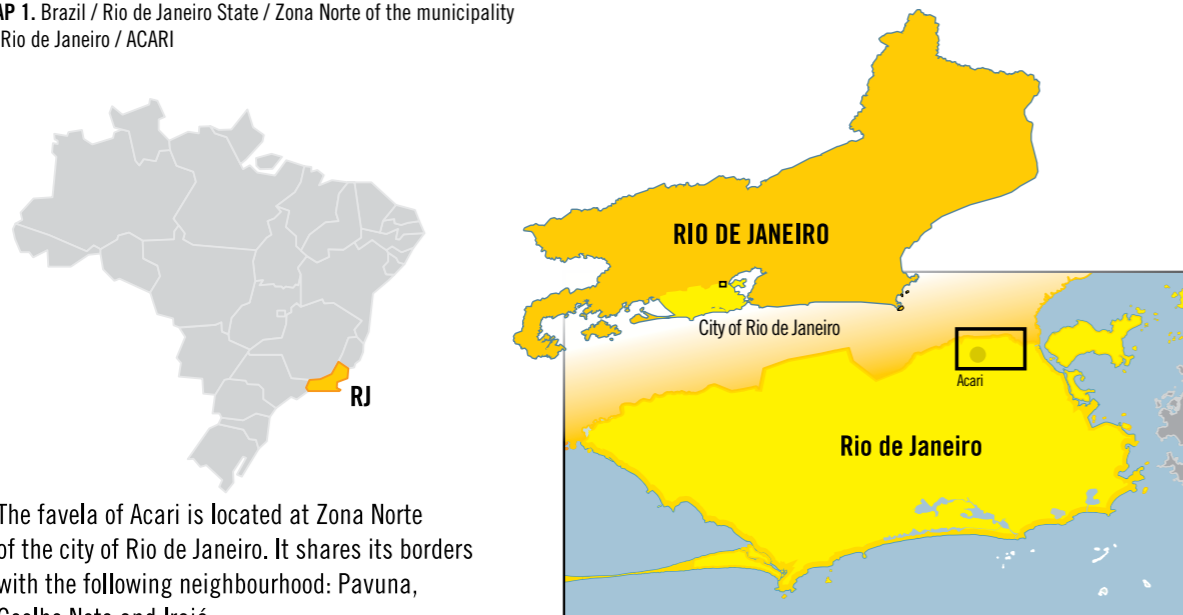


courts. The year 2011 was chosen considering that a four-year period (2011 to 2015) would have been sufficient to carry out all the necessary administrative and judicial steps between the police investigation and lodging a complaint or requesting shelving of the case by the Public Prosecution Service.

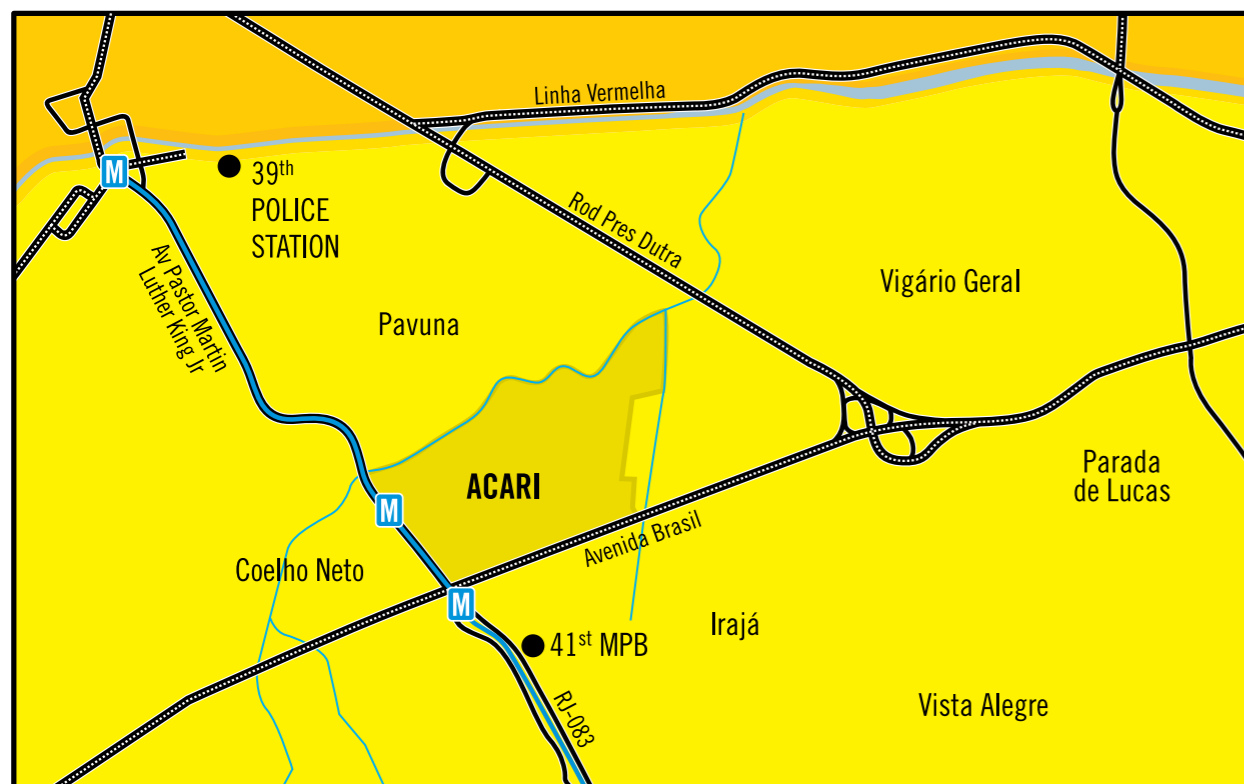
Amnesty International also had access to various documents concerning the cases described in this report, such as incident reports, death certificates, forensic reports, police inquiries, photos and videos.

For the fieldwork, the favela of Acari was chosen. It is located in the part of the city of Rio de Janeiro which has the greatest number of homicides resulting from police intervention in the entire state -the area covered by the 41st Battalion of the Military Police.

MAP 1. Brazil / Rio de Janeiro State / Zona Norte of the municipality of Rio de Janeiro / ACARI



The favela of Acari is located at Zona Norte of the city of Rio de Janeiro. It shares its borders with the following neighbourhood: Pavuna, Coelho Neto and Irajá



Amnesty International representatives carried out 14 field visits to Acari. In total, 50 community members were interviewed (witnesses, families of victims and public officials), as were members of the Civil and Military Police, including four Civil Police chiefs and one Military Police commander, the Police Ombudsman of the state of Rio de Janeiro, specialists in the field of public security and defence counsels from the state Public Defender's Office. Amnesty International also took part in two meetings with Acari residents in August and December 2014 – called by the community to report police abuses in the favela –, which were attended by approximately 90 people. During the fieldwork, it was observed that the same pattern of police behaviour that results in so many deaths also gives rise to other abuses by police.

In addition to incidents in Acari, another six representative cases of killings committed by Military Police in the municipality of Rio de Janeiro between 2013 and 2015 were identified to exemplify cases where the conduct of the Military Police in other areas of the city has also resulted in deaths.

Some of the family members of victims and favela residents interviewed agreed to be identified in this report. However, we have respected all requests for anonymity.

The cases described in this report portray the dynamic and the context of the deaths of each of the victims through first-hand accounts provided in interviews with favela residents, witnesses and family members, as well as through information obtained from incident reports, death certificates, investigation reports, photos and videos. In order to prevent recognition of the information sources and respect anonymity where requested, the cases have been constructed from different witness accounts and documentary sources which are not explicitly identified.

Amnesty International asked the Rio de Janeiro Secretariat for Public Security for the investigation reports relating to all the killings described in this report, but the request was denied. In some cases, where the documents have already been released for legal proceedings, Amnesty International managed to obtain investigation reports from family members. Of four interviews requested with senior authorities of the Rio de Janeiro State Civil and Military Police, three were granted.

Below, Acari favela. [Rio de Janeiro, 05/26/2015] ©BRUNO MORAES/ANISTIA INTERNACIONAL





Rocinha favela. [Rio de Janeiro, 11/13/2011]

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BRAZIL'S OBLIGATIONS UNDER INTERNATIONAL LAW

THE RIGHT TO LIFE

Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 4 of the American Convention on Human Rights establish the obligation for States to protect, respect and guarantee the right to life. Brazil ratified both international instruments in 1992 and, in addition, recognized the jurisdiction of the Inter-American Court of Human Rights in 1998.

The right to life is a provision of customary international law and forms part of an irrevocable core of rights that cannot be suspended under any circumstances, including in emergency situations²⁰. The right to life is an essential precondition for full human dignity and the effective exercise of all other human rights. States' obligations deriving from the right to life require not only that no person may be arbitrarily deprived of their life, but also that States must take all appropriate measures to protect and preserve that right.

The United Nations Human Rights Committee has already recognized that the right to life must be understood as the most essential of rights, "the supreme right from which no derogation is permitted"²¹.

The Inter-American Court of Human Rights has defined the scope of the right to life in similar terms, considering it to be "a fundamental human right, the full enjoyment of which is a pre-requisite for the enjoyment of all other human rights, in such a way that, if it is not respected, all other rights become meaningless"²².

**RIGHT TO LIFE =
ESSENTIAL
PRECONDITION
FOR FULL HUMAN
DIGNITY**

²⁰ Inter-American Court of Human Rights. Case of the Sawhoyamaya community v. Paraguay, paragraph 150 and case of the Ituango massacres v. Colombia, paragraph 128, among others.

²¹ Human Rights Committee, General Comment No. 6, paragraph 1 (1982). HRI/GEN/1/Rev.9 (Vol. I).

²² See: Case of the "Street Children" (Villagrán Morales and others) v. Guatemala. Merits, para. 167, para. 144 supra; case of Montero Aranguren and others (Retém de Catia) v. Venezuela. Preliminary objections, Merits, Reparations and costs. Ruling of 5 July 2006, Series C. No. 150, para. 63; and case of Zambrano Vélez and others v. Ecuador. Merits, Reparations and costs. Ruling of 4 July 2007. Series C No. 166, para. 78.

The right to life implies two specific obligations: one substantive and the other procedural²³. On the one hand, the State has the obligation to take the necessary measures to not only **PREVENT AND PENALIZE** the deprivation of life as a consequence of criminal acts, but also **TO AVOID EXTRAJUDICIAL EXECUTIONS** committed by its own security forces. On the other hand, States must conduct a proper investigation and ensure that those responsible are held to account in the event of suspicions that someone has been deprived of their life.

The Inter-American Commission on Human Rights (IACHR) points out that, when implementing security policies, States must take effective measures to guarantee the protection of persons under their jurisdiction from the actions of individuals who might threaten or violate the right to life, as well as ensuring that law enforcement officials behave in accordance with the international principles on the use of force. In particular, the IACHR emphasizes its concern about the high level of impunity in cases of extrajudicial executions committed by State agents in the context of the phenomenon known as “hired killings” of alleged criminals for the supposed “protection of citizen security”²⁴.

INTERNATIONAL PRINCIPLES ON THE USE OF LETHAL FORCE

At the international level, there are two United Nations reference documents that regulate the use of force by public security agents: “Code of conduct for law enforcement officials”²⁵ and “Basic principles on the use of force and firearms by law enforcement officials”²⁶.

International rules establish that the authorities responsible for law enforcement must only use force when there are no other means of achieving a legitimate objective²⁷. Furthermore, the degree of force employed must be proportional to the seriousness of the damage to be averted and must be implemented in such a way as to minimize harm and injuries²⁸. Officers must only use firearms as a last resort, that is, when strictly necessary for self-defence or defence of others against an imminent threat of death or serious injury²⁹.

States must guarantee that their law enforcement officials – particularly police officers – respect the right to life, and protect life when it is threatened by third parties. Thus, failure of the State to properly investigate cases of death resulting from the use of force by its agents constitutes a violation of the right to life³⁰.

23 Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 01/04/2014, A/HRC/26/36, paragraph 46.

24 Inter-American Commission on Human Rights (IACHR). Report on citizen security and human rights, paragraph 108, available at: <http://cidh.oas.org/pdf%20files/SEGURIDAD%20CIUDADANA%202009%20PORT.pdf> accessed on 1 July 2015.

25 Available at: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx>>. Accessed on: 25/06/2015.

26 Available at: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>>. Accessed on: 25/06/2015.

27 Principle 4 of the Basic principles on the use of force and firearms by law enforcement officials states that “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.”

28 Principle 5(a) of the Basic principles on the use of force and firearms by law enforcement officials specifies the requirement to “Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved”.

29 Principle 9 of the Basic principles on the use of force and firearms by law enforcement officials states that “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”

30 Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 01/04/2014, A/HRC/26/36, paragraph 79.

The United Nations Human Rights Committee, in its General Comment number 6 on the right to life, states that “the States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities”.

The use of force in any police operation must be in line with the principles established in international legislation on the use of force and firearms, including:

LEGITIMATE OBJECTIVE:

Force must only be used in pursuit of a legitimate objective. The only objective that can be legitimate when lethal force is used is saving the life of a person or one’s own life³¹.

NECESSITY:

In the line of duty, law enforcement officials must apply non-violent means before resorting to the use of force and firearms; they must only use force where unavoidable and if other means are ineffectual. Moreover, the principle of necessity requires that police only use such force when required in order to achieve the objective, and the amount of force used must not exceed that which is necessary. Law enforcement officials must also be required to identify themselves as such and give a clear warning that they intend to use firearms, allowing sufficient time for the warning to be observed – provided that doing so does not place the officials at risk, create the risk of death or serious injury for other persons, or is clearly inappropriate or pointless in the circumstances of the incident³².

PROPORTIONALITY:

The degree of force used must be proportional to the seriousness of the damage to be averted. Special considerations are necessary when lethal or potentially lethal arms are used³³. All uses of firearms should be treated as lethal or potentially lethal. The requirement of proportionality in these situations may only be applied if lethal force is used to save a life³⁴.

31 Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 01/04/2014, A/HRC/26/36, paragraph 58.

32 Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 01/04/2014, A/HRC/26/36, paragraphs 59-61.

33 Principle 5, Basic principles on the use of force and firearms by law enforcement officials.

34 Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 01/04/2014, A/HRC/26/36, paragraph 70.

**EDUARDO DE JESUS, 10 YEARS OLD,
KILLED BY MILITARY POLICE ON 02/04/2015**



Terezinha de Jesus, Eduardo's mother. [Rio de Janeiro, 06/24/2015]. ©ANISTIA INTERNACIONAL

EDUARDO DE JESUS, a 10-year-old boy, was killed by Military Police outside his home in the Complexo do Alemão neighbourhood, in Rio de Janeiro's Zona Norte, on 2 April 2015.

At around 5:30 pm, Eduardo was playing with a mobile phone as he sat by the front door of his house waiting for his sister, who was on her way home. No exchange of gunfire or police operation was taking place.

According to his mother, Terezinha Maria de Jesus, aged 40, it all happened in a matter of seconds. "I just heard a bang and him cry out "mum!" ... I ran outside and saw the terrible scene of my son lying there". Terezinha was beside herself. She saw a group of Military Police and shouted: "You killed my son, you bastard". The police officer replied: "Just as I killed your son, I could easily kill you, because I killed the son of a crook, the son of a lowlife".

The police officer pointed the gun at Terezinha's head and she said: "Go ahead and kill me. You've already taken part of me; go ahead and take the rest." Another Military Police officer led the first officer away from Eduardo's mother, avoiding yet another tragedy.

Terezinha says that the crime scene was almost dismantled by the police officers. Members of the community prevented them from doing so. Eduardo was dead and the police officers tried to remove his body from the scene and plant a gun to incriminate him³⁵. One of the police officers said: "Quickly put a weapon near the body and that's it".

Terezinha remembers: "They went towards to my son, saying that they were going to take away his body. I said that they weren't going to take away my son because I wouldn't let them. They're used to doing that: taking away the body and making it disappear. They get rid of the body and

³⁵ This is a very common practice among the Military Police of Rio de Janeiro, see section: Crime scene manipulation and flaws in investigations.

nothing happens. It's reported in the news that so-and-so disappeared and was never found. That's what they did with Amarildo³⁶ and he wanted to do the same with my son."

Some residents, outraged by the death of a child at the entrance to his house, started a protest, but it was heavily quashed by the Military Police, who used tear gas against the protesters.

Terezinha expressed her grief and anger: "My son was brutally murdered. That's not fair. You can't just go into a community and shot the first person you see."


A day after Eduardo's death, the officers responsible for shooting the bullet that hit him were suspended and had their weapons taken away for analysis. The case is being investigated by the city's Homicide Division.

The family was threatened and have had to move out of their home in Complexo do Alemão out of fear of reprisals.



Photo of a protest in Complexo do Alemão regarding the killings of Eduardo, a 10 year-old boy, and other residents. [Rio de Janeiro, 04/04/2015]. ©LUIZ BALTAR/ANISTIA INTERNACIONAL

³⁶ Amarildo disappeared after having been stopped by Military Police from the Pacifying Police Unit (UPP) in the Rocinha favela in 2013, see section: How the police operate in Brazil.



EXTRAJUDICIAL EXECUTIONS IN THE CONTEXT OF THE WAR AGAINST DRUGS

In Brazil, federal and state government representatives have, for years, maintained a discourse that encourages a warlike approach to public security actions, particularly within the framework of the “war against drugs”. This approach has led to highly militarized, large-scale police operations, resulting in large numbers of deaths, many of which show strong signs of extrajudicial executions at the hands of police forces.

The term “extrajudicial executions”, which is used in this report, encompasses the different violations of the right to life committed by law enforcement officials, including not only deliberate killings, but also deaths caused by unnecessary and excessive use of force.

According to the Inter-American Commission on Human Rights (IACHR), extrajudicial executions are characterized by deliberate and illegal deprivation of life by state officials, usually acting on the orders or, at least, with the consent or acquiescence of authorities³⁷. Therefore, **EXTRAJUDICIAL EXECUTIONS ARE ILLEGAL ACTIONS** committed by precisely those agents vested with the power originally intended to protect and guarantee people’s safety and lives.

States have the obligation to protect the people under their jurisdiction against violence and criminal activities, but that obligation goes hand-in-hand with the duty to ensure respect for every person’s right to life, including those suspected of having committed a crime. As the UN Special Rapporteur, Dr Philip Alston, said in relation to extrajudicial, summary and arbitrary executions during his visit to Brazil in 2007, “There is no conflict between the right of all Brazilians to security and freedom from criminal violence and the right not to be arbitrarily shot by the police”³⁸.

³⁷ Inter-American Commission on Human Rights (IACHR), case 11,658, Martín Pelicó Coxic (Guatemala), 15 October 2007, paragraph 109.

³⁸ Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Brazil, A/HRC/11/2Add.2.

The belief that Brazil is engaged in a “war on drugs” and that killing people suspected of being involved in drug trafficking is part of that “war” structures the narrative and meaning of a significant part of public security policy. For example, in 1995, the then governor of Rio de Janeiro State, Marcello Alencar, introduced a supplement to the remuneration of Civil and Military Police officers, which could be as much as 150% of their salaries, for actions deemed to constitute acts of bravery, such as killing a suspect in a police operation. This supplement became known as the “Far West bonus” and was in force until 1998, when it was abolished by the Legislative Assembly of Rio de Janeiro State.

The assertion by police that the victims were involved in crime has recurrently been used to justify the use of lethal force. The official discourse places the blame on the victim, who is stigmatized by a combination of racism, the war on drugs and the criminalization of poverty.

A significant part of Brazilian society accepts those deaths as legitimate and often even defends them. Expressions such as “a good crook is a dead crook” are commonplace in Brazil. According to a survey carried out by the Secretariat of Human Rights of the Presidency, 43% of Brazilians agree with that statement, with 32% agreeing fully with the phrase³⁹. The rationale for execution is not only rooted in police institutions; the police believe that they are doing good for society and society supports that.⁴⁰

This is reflected in the institutions of the criminal justice system – the Civil Police, Public Prosecution Service and judiciary – as, in cases where the victim has a (real or perceived) connection with drug trafficking, the investigation tends to support the police statements

that the death occurred in a situation of confrontation or in response to an “unjust aggression”. In the majority of cases, the investigations do not seek to ascertain whether the police officer used force proportionately or whether the death was actually an execution⁴¹.

HOW THE POLICE OPERATE IN BRAZIL

Article 144 of the Brazilian Federal Constitution states that public security, which is a duty of the state and the right of all, shall be exercised to maintain law and order and to protect people and property through certain police corps. Among the various police corps provided for in Brazilian legislation, two stand out for their powers and numbers of officers: the Military Police and the Civil Police. Both are subordinate to the state governments⁴².

The Military Police is responsible for street patrols and maintaining law and order. It is organized in a military hierarchy and crimes committed by Military Police officers in the line of duty that are provided for in the Military Penal Code (with the exception of intentional crimes against human life, such as homicides) are judged by a military tribunal.

39 According to a survey carried out in 2008 by the Secretariat of Human Rights of the Presidency entitled “Perceptions of human rights in Brazil”. See: http://posticsenasp.ufsc.br/files/2015/03/Percep%C3%A7%C3%B5es_direitos_humanos.pdf

40 Amnesty International interview with a public security specialist in May 2015.

41 See: ZACCONE, Orlando. *Indignos de vida: a forma jurídica da política de extermínio de inimigos na cidade do Rio de Janeiro*: Editora Revan, 2015.

42 Brazil has three federative levels: the Union (federal level), 27 states (including the Federal District, where the capital Brasília is located) and the municipalities.

The Military Police is subordinate to the elected state governors, but is also considered an auxiliary reserve force of the army. During Brazil’s military dictatorship (1964-1985), the Ministry of the Army was responsible for the national coordination and control of the Military Police⁴³.

The Military and Civil Police have different forms of organization in each state. In Rio de Janeiro, for example, the Military Police is divided into Battalions, which are responsible for policing specific areas in the state, and other operational units, such as the Special Police Operations Battalion (BOPE) and the Riot Police Battalion.

The Civil Police performs the role of judicial police and is responsible for investigating criminal offences. It is divided into district police stations which are responsible for a given geographical area, and also has specialized units, such as the Homicide Division, Women’s Support Stations and the Organized Crime Repression and Special Inquiries Station.

CONTROL of POLICE ACTIVITY in Brazil is FRAGILE. Formally, it is carried out by internal and external supervisory bodies. The internal affairs services of the Military and Civil Police are the internal bodies responsible for investigating violations and irregularities committed by police officers. Each corps has its own internal affairs service.

The Police Ombudsmen are external bodies that supervise police activity; they receive, refer and oversee complaints and claims from the public in relation to abuses by Civil and Military Police officers. They are relatively new institutions in Brazil, with the first steps towards their creation being made by São Paulo State in 1995⁴⁴. The Police Ombudsman of Rio de Janeiro State was set up in 1999⁴⁵ to receive complaints regarding the actions of both Civil and Military Police officers⁴⁶. Since then, Ombudsmen have been established in several other states of Brazil, although they are characterized by a lack of independence, institutional resources, material resources and investigatory powers, which limits their ability to effectively supervise police activity⁴⁷.

The Police Ombudsman of Rio de Janeiro said, in an interview with Amnesty International, that the Ombudsman’s relationship with the Military Police in the state is delicate and that “the Military Police commanders are very reserved and think that the problems of the force should be resolved internally by them. They do not accept outside interference.”

Besides the Ombudsmen, the main institution tasked with exercising external control of the police in Brazil is the Public Prosecution Service – an independent body which plays a key role in the jurisdictional function of the state and is responsible for bringing complaints before the courts and instituting criminal proceedings where there is proof that crimes have been committed, usually on the basis of investigations carried out by the Civil Police.

The responsibilities of the Public Prosecution Service also include exercising external control of police activity with a view to preventing illegal and abusive actions committed by Military and Civil Police officers. This role has not been performed satisfactorily⁴⁸; consequently, police control mechanisms in Brazil are fragile.

43 In accordance with Decree- Law No. 667 of 2 July 1969.

44 <http://www.al.sp.gov.br/repositorio/legislacao/decreto/1995/decreto-39900-01.01.1995.html> Accessed on 20 June 2015.

45 State Law No. 3,168 of 12 January 1999. <http://gov.rj.jusbrasil.com.br/legislacao/228191/lei-3168-99> Accessed on 6 July 2015.

46 For more information about the Police Ombudsman of Rio de Janeiro State, see <http://www.ouvidoriadapolicia.rj.gov.br>. Accessed on 6 July 2015.

47 Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Brazil, A/HRC/11/2Add.2., paragraph 74.

48 See ZACCONE (op. cit. – note 43).

A SIGNIFICANT PART OF BRAZILIAN SOCIETY ACCEPTS THOSE DEATHS AS LEGITIMATE AND OFTEN EVEN DEFENDS THEM.

PACIFICATION POLICE UNITS (UPPs) IN RIO DE JANEIRO

Pacification Police Units (UPPs) are the latest public security policy initiative⁴⁹ in the municipality of Rio de Janeiro. Their aim is to combat drug trafficking and the armed control of certain areas of the city by criminal gangs. The first UPP was set up in 2008 and they are now present in 37 districts/favelas. There is also a UPP in a municipality of Baixada Fluminense, making a total of 38 units as of June 2015.

The principles of the UPPs include outreach (community) policing and the use of recently qualified Military Police officers, who are specially recruited to work in those units and undergo specific training. There are currently 9,000 Military Police officers in the UPPs, accounting for 18% of total Military Police personnel in Rio de Janeiro State. The area covered by the UPPs encompasses 196 communities, with around 600,000 inhabitants. Deployment of the units has contributed to reducing certain crime rates in specific areas of the city, such as homicide numbers, including killings resulting from police intervention and the number of police officers killed in the line of duty. There were 20 deaths as a result of police interventions in UPP areas in 2014, which is 85% lower than the number recorded in 2008 (136 fatalities)⁵⁰.

Despite this progress, there are still countless **COMPLAINTS OF ABUSES** committed by Military Police officers from those units, including **UNNECESSARY AND EXCESSIVE USE OF FORCE** and **EXTRAJUDICIAL EXECUTIONS**. One example is the case of Amarildo de Souza, who was taken by UPP officers from the Rocinha favela, in the city's Zona Sul area, in July 2013. Amarildo was tortured and killed, and his body has yet to be found⁵¹. The investigations revealed that more than 20 police officers, including the Commander of the UPP, were involved in the case.

The Manguinhos UPP, set up in 2013 in Rio de Janeiro's Zona Norte, has been the subject of several reports of Military Police abuses, including accusations of extrajudicial executions. Paulo Roberto Pinho de Menezes, known as "Nêgo", was a favela resident in the Manguinhos district and was 18 years old when he was killed by Military Police officers from the UPP on 17 October 2013. At around 2:30 am that morning, his mother, Fátima, was called by a neighbour who told her that Military Police officers were beating her son. When Fátima reached the place in question, an alleyway in the favela, she saw Paulo Roberto lying on the floor, with police officers around him. One of the officers was blocking the way, but Fátima managed to get to her son. She told Amnesty International that Paulo Roberto was unconscious and died shortly afterwards. Paulo Roberto's death certificate recorded the causes of death as "multiple wounds and mechanical suffocation".

⁴⁹ An initiative prior to the UPPs, the GPAE (Policing Group in Special Areas), which was launched in 2000, also promoted community policing in the city's favelas, aiming to reduce the number of weapons and change abusive and violent police practices in those areas.

⁵⁰ Rio De Janeiro State. Institute of Public Security / Rio de Janeiro State Secretariat for Public Security. Balanço de Indicadores da Política de Pacificação (2007-2014). Rio de Janeiro, April 2015. Available at: <http://arquivos.proderj.rj.gov.br/isp_imagens/uploads/Balancodelndicador-da-PoliciadePacificacao2015.pdf>. Accessed on 25/06/2015.

⁵¹ Amnesty International launched an Urgent Action in relation to this case. See UA 212/13. Index: AMR 19/006/2013. The killing of Douglas Rafael da Silva, known as DG, also involved UPP Military Police officers (from the Pavão-Pavãozinho unit) and prompted Urgent Action 105/14. The case is described in this report.

JOHNATHA DE OLIVEIRA LIMA, 19 YEARS OLD, KILLED BY MILITARY POLICE OFFICERS OF THE MANGUINHOS UPP ON 14/05/2014



Ana Paula, Johnatha's mother [Manguinhos, Rio de Janeiro, 06/18/2015]. ©AF RODRIGUES/ANISTIA INTERNACIONAL

JOHNATHA lived in a favela in Manguinhos, in the Zona Norte area of Rio de Janeiro. He was 19 years old when he was killed by Military Police officers from the local UPP. On 14 May 2014, at around 3:30 pm, Johnatha left his house to take his girlfriend home. Before he went out, Ana Paula, his mother, with whom he lived, asked him to pop by his grandmother's house to give her some sweets that she had made. Ana Paula remembers sadly: "How could I have imagined that that would be my last moment with him?"

The atmosphere had been tense in Manguinhos since early that morning. Some children had been throwing stones at the police officers who were destroying the football pitch. Military Police officers had also reportedly been "hassling" drug users. On the way back from his grandmother's house, Johnatha came across a situation between UPP officers and teenagers from the favela. A Military Police officer fired his gun into the air to disperse the group of people who had gathered there and everyone started running in different directions. Then another Military Police officer shot in the direction of the residents and hit Johnatha in the back, in the region of the coccyx, as he was running away.

At that moment, several people asked the Military Police officers to stop shooting, because there were only local residents there, including many children.

Johnatha was assisted by the other residents and taken to Manguinhos Emergency Care Unit (ECU), but he did not survive his wounds. As soon as she heard that her son had been shot, his mother went to the ECU with her brother-in-law, where she saw some police officers and at least two Military Police vehicles. Two of her sisters were also there. They were desperate because they had already heard that Johnatha had died. Ana did not see her son's body until the following day, already in the coffin.

At the ECU, someone suggested that Johnatha's uncle complete an incident report for the murder of his nephew, so he went to the 21st police station. But when he got there, he saw some Military Police officers from Manguinhos UPP filing a "killing resulting from police intervention" incident report with the justification that there was "resistance". On the insistence of Johnatha's uncle, the chief officer at the police station said that he would contact the Homicide Division to have the scene of the crime examined. The investigation of the case was then transferred to that Division.

Referring to the attempt of the Military Police officers to record the incident as a case of “resistance followed by death”, Ana Paula says that “the victim is made out to be the criminal. It’s always like that in the favela. You have to prove you’re not a crook all the time.” She also said that that happens because the police officers “are confident that they will go unpunished”.

Ana Paula shared her feelings: “It’s really unfair. It’s really sad. How long is it going to continue like that? They’ve taken a piece of me. It hurts so, so much; only another mother could understand. I’ve lost that little piece of me, but my husband and daughter have also lost me, because I will never be the same person that I was before.”

On 6 August 2014, the Public Prosecution Service charged a Military Police officer with Johnatha’s murder. The legal proceeding is underway in Jury Court No. 1 of Rio de Janeiro capital.

It can be seen that, although the deployment of UPPs in some areas of Rio de Janeiro has generated a positive result by reducing the number of homicides and the armed presence of criminal gangs in the favelas, police abuses continue to occur. Without a broad public security policy that is integrated with all areas of the city, with a focus on reducing homicides and controlling police activity, the UPPs may become isolated and their promise of a new model of community policing with respect for favela residents may not be fulfilled.

RESISTANCE FOLLOWED BY DEATH AND KILLINGS RESULTING FROM POLICE INTERVENTION

When the public authorities learn of the killing of a person as a result of (military or civil) police intervention, an incident report is drawn up describing a “killing resulting from police intervention”, which may also be referred to as “resistance followed by death”⁵². In these situations, the person who carried out the killing is known and the police officer in question registers the incident with the competent Civil Police authority.

Thus, cases of “**RESISTANCE FOLLOWED BY DEATH**” are recorded in administrative incident reports drawn up by the Civil Police, which makes a prior classification of killings by police officers as lawful based on self-defence of the officer.

This legal concept dates back to the time of the military dictatorship (1964-1985), when torture, extrajudicial executions, enforced disappearances, the hiding of bodies and illegal imprisonment were instruments of a state strategy designed to suppress political dissent⁵³.

The administrative police report is based on two legal provisions. Firstly, Article 292 of the Brazilian Code of Criminal Procedure (CCP) permits the use of force by police officers in the event of resistance or attempted escape by the detainee⁵⁴. Secondly, Article 25 of the Penal Code establishes that no crime has been committed when an act is carried out in self-defence⁵⁵.

⁵² From this point onwards, we will use the term “resistance followed by death” (translated from the Portuguese “autos de resistência”) to refer to killings by on-duty police officers which are legitimated on the grounds of self-defence.

⁵³ See report of the National Truth Commission, published on 10/12/2014 <http://www.cnv.gov.br> Accessed on 01/07/2015.

⁵⁴ Article 292 of the CCP states that: “If there is blatant resistance to arrest or resistance to arrest determined by the competent authority, even by third parties, the arrester and any persons assisting him may use the necessary means to defend themselves or to overcome the resistance, with full details of the incident being recorded in a report which must also be signed by two witnesses.”

⁵⁵ Article 25 of the Penal Code considers self-defence as one of the hypotheses that removes the illegality of a killing: “One is deemed to have acted in self-defence when, moderately using the necessary means, one wards off an actual or imminent unjust aggression against one’s own rights or a right of another.”

This incident report gives rise to a police inquiry, which is chaired by the Civil Police Chief responsible for the police district in which the crime occurred. Investigations are then carried out to ascertain the circumstances of the incident and the conclusions are sent to the Public Prosecution Service, which may propose that criminal proceedings be brought or that the case be shelved if it is considered that the death occurred as a result of legitimate self-defence. The judiciary will either accept or reject the indictment of the police officer (or officers) for murder or the request to shelve the case.

In 2011, the Civil Police Chief of Rio de Janeiro State published Order No. 553 of 7 July, creating a series of rules to be observed for the investigation of such cases, including preservation of the crime scene and its immediate examination in the presence of the competent authority (Civil Police).

In 2012, the Council for the Defence of Human Rights (CDDPH) published Resolution No. 08, which seeks to abolish the term “autos de resistência” (“resistance followed by death”) in incident reports and proposes rules for the investigation of those cases. Even without the force of law, Resolution No. 08 has influenced changes in several Brazilian states with regard to the form, registration and investigation of those kinds of killings.

Rio de Janeiro State now records such cases as “killing resulting from police intervention”, although it continues to produce statistics where the phrase “resistance followed by death” is used as a synonym.

According to data provided by the 27 Secretariats for Public Security to the Ministry of Justice, processed by the NGO Brazilian Forum on Public Safety⁵⁶, it is estimated that 1,809 people were killed by on-duty Military or Civil Police in 2013. That equates to five people being killed by the police every day in Brazil.

Shortcomings in the recording of police incidents and the lack of transparency and standardization of the data produced by the Secretariats for Public Security of the different states make it difficult to consolidate this information at the national level. It cannot be accurately confirmed how many people have been killed by on-duty police officers in Brazil.

⁵⁶ Data processed by Brazilian Forum on Public Safety using information of the National Secretariat for Public Security (SENASP) of the Ministry of Justice, in the 8th edition of the Brazilian Yearbook of Public Security, published in November 2014.



Military Police in Complexo da Maré
[Rio de Janeiro, 03/30/2014]

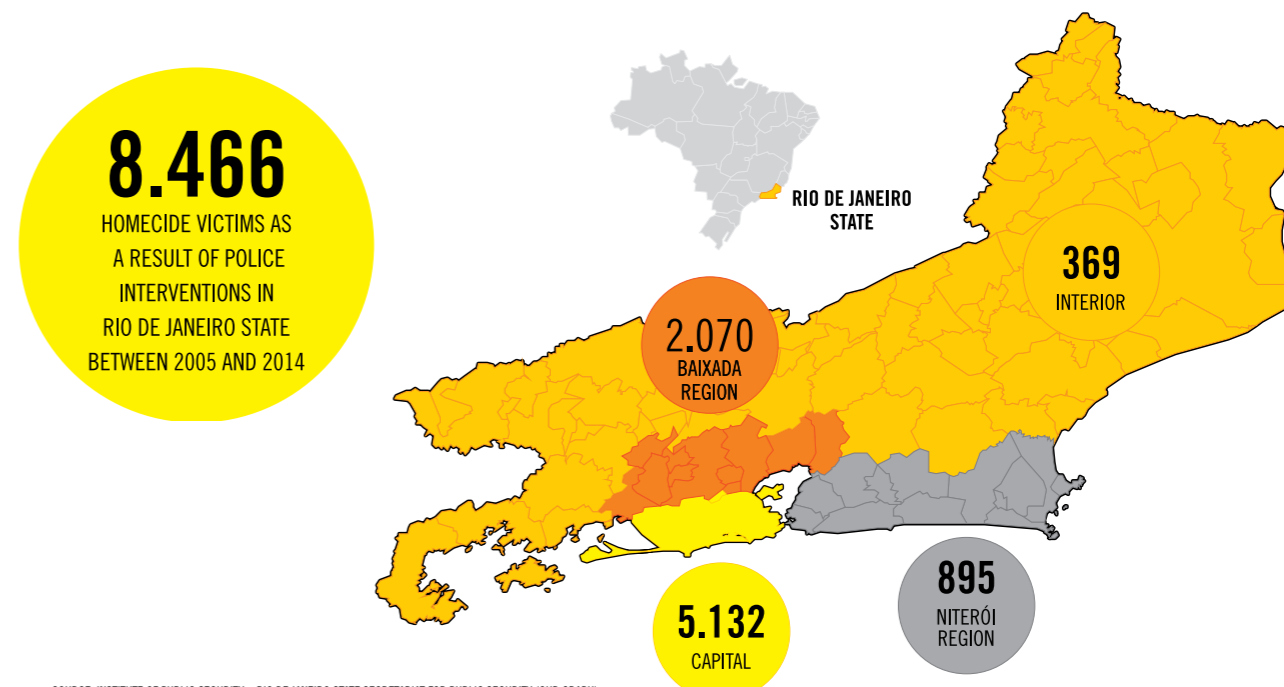
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KILLINGS RESULTING FROM POLICE INTERVENTION IN RIO DE JANEIRO

Rio de Janeiro is one of the only states that has made positive progress by ensuring the transparency of information relating to crime indicators. Through the Institute of Public Security, the state publishes detailed monthly statistics on the occurrence of crimes, including data on killings resulting from police intervention. This transparency of data has made it possible to trace the evolution, over the years, of the numbers of people killed by on-duty police officers and identify the regions of the state and the city of Rio de Janeiro with the highest rates of police lethality.

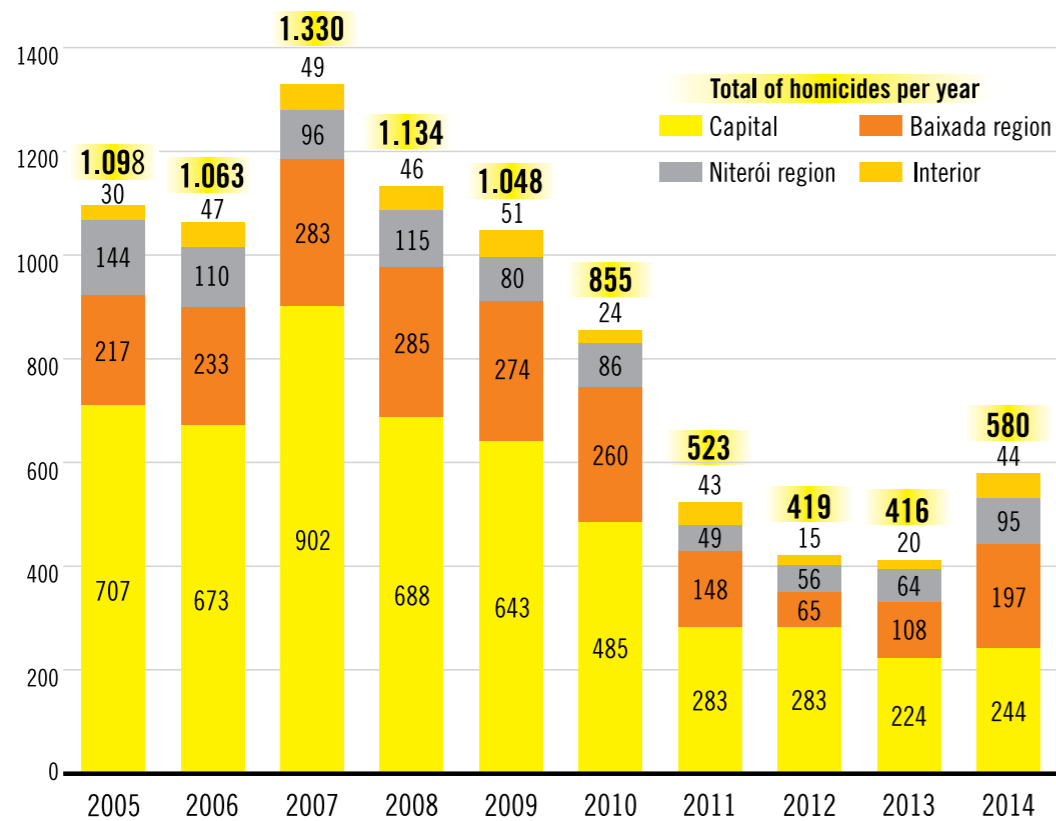
In a 10-year period (2005-2014), 8,466 cases of killings resulting from police intervention were recorded in the state, 5,132 of which occurred in the capital. Although the number began to fall in 2010, between 2013 and 2014, there was a 39.4% increase in the number of cases of “resistance followed by death” in the state as a whole and a 9% increase in the city of Rio de Janeiro.

MAP 2. Killings resulting from police intervention in Rio de Janeiro State between 2005 and 2014



SOURCE: INSTITUTE OF PUBLIC SECURITY – RIO DE JANEIRO STATE SECRETARIAT FOR PUBLIC SECURITY (OUR GRAPH)

GRAPHIC 1. Number of killings resulting from police intervention by region of Rio de Janeiro State between 2005 and 2014



SOURCE: INSTITUTE OF PUBLIC SECURITY OF RIO DE JANEIRO STATE (OUR TABLE)

In 2011, there was a significant reduction in the number of cases of “resistance followed by death”, partly due to the publication of Order No. 553 by the Civil Police Chief, but also due to the inclusion of an indicator for the reduction in the number of killings resulting from police intervention in the system of targets and monitoring of results of the Secretariat for Public Security (created in 2009). Although those initiatives have contributed to reducing the number of killings resulting from police intervention in Rio de Janeiro State, the numbers are still too high.

Amnesty International has observed that the mindset of the war on drugs and combat results in hundreds of deaths every year in Rio de Janeiro, including Military and Civil Police officers who die in the line of duty. Many police operations intended to suppress drug trafficking also place public security personnel at risk. Over the last 10 years, an average of 23 on-duty police officers have been killed each year, most of them members of the Military Police. However, the information available does not indicate the specific contexts in which those deaths occurred.

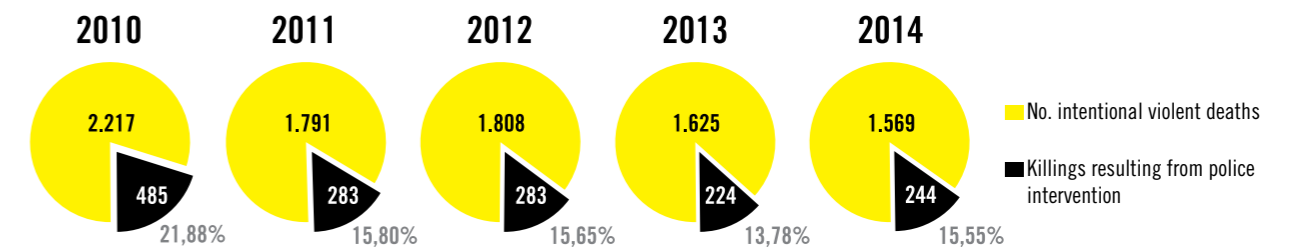
TABLE 2. Number of on-duty Military and Civil Police killed in Rio de Janeiro State between 2005 and 2014

YEAR	CIVIL	MILITARY	TOTAL
2005	9	24	33
2006	2	27	29
2007	9	23	32
2008	4	22	26
2009	7	24	31
2010	5	15	20
2011	4	8	12
2012	6	12	18
2013	4	16	20
2014	0	15	15

SOURCE: INSTITUTE OF PUBLIC SECURITY OF RIO DE JANEIRO STATE (OUR TABLE)

By comparing the numbers of **KILLINGS RESULTING FROM POLICE INTERVENTION** with the total cases of intentional violent death⁵⁷ in the capital over the last five years, it can be seen that they **ACCOUNT FOR A SIGNIFICANT PERCENTAGE** of total deaths.

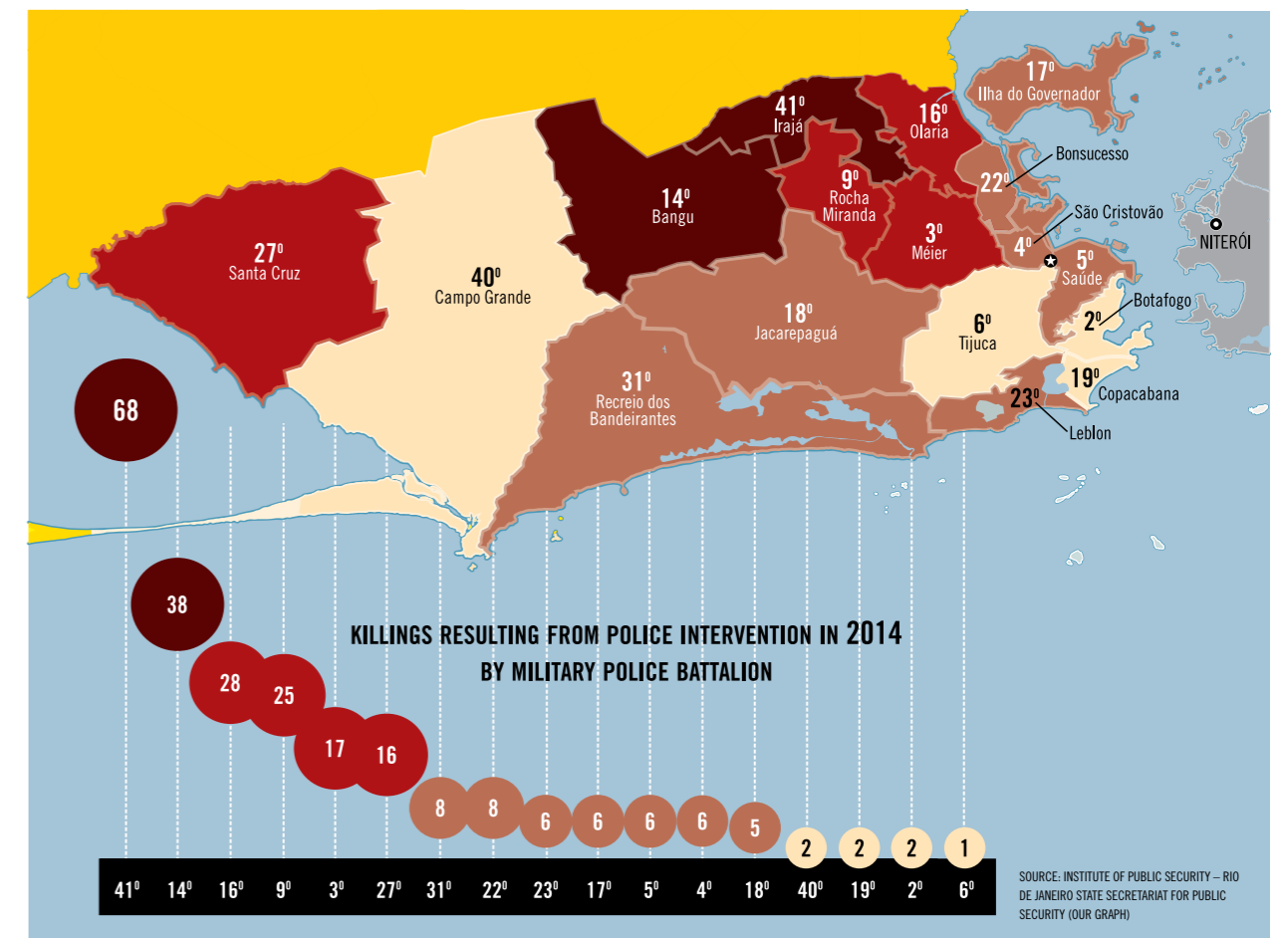
GRAPHIC 2. Number of intentional violent deaths and killings resulting from police intervention in the city of Rio de Janeiro between 2010 and 2014



In Rio de Janeiro State, the government divides the territory of the state into Integrated Public Security Areas, each of which corresponds to the operational area of a Military Police Battalion (MPB). If we look at the geographical distribution of killings resulting from police intervention in the city of Rio de Janeiro in 2014, we see that the majority occurred in the poorest areas, especially the city’s Zona Norte (North Zone) and Zona Oeste (West Zone).

SOURCE: INSTITUTE OF PUBLIC SECURITY OF RIO DE JANEIRO STATE (ISP/RJ) (OUR TABLE)
NOTE: THIS DATA WAS TAKEN FROM THE ISP/RJ WEBSITE IN FEBRUARY 2015 AND UPDATED IN LINE WITH THE CORRECTIONS PUBLISHED BY THAT BODY.

GRAPHIC 3. Number of killings resulting from police intervention in 2014 by Military Police Battalion in the city of Rio de Janeiro

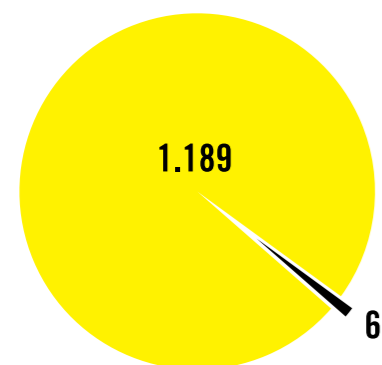


SOURCE: INSTITUTE OF PUBLIC SECURITY – RIO DE JANEIRO STATE SECRETARIAT FOR PUBLIC SECURITY (OUR GRAPH)

⁵⁷ This category includes: murder, bodily injury resulting in death, armed robbery followed by death, resistance followed by death or killings resulting from police intervention, Military Police killed in the line of duty and Civil Police killed in the line of duty.

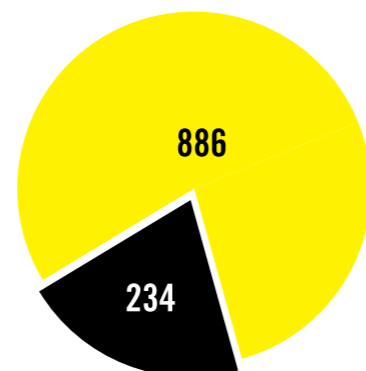
Amnesty International obtained disaggregated information about the victims of killings resulting from police intervention in the city of Rio de Janeiro by requesting data from the Institute of Public Security. By analysing data broken down according to age, sex and race/colour⁵⁸, it was possible to establish the profile of the typical victim in the period from 2010 to 2013. It is concluded that the vast majority of victims are young black men, a segment of the population that has historically been marginalized and discriminated against in Brazil.

GRAPHIC 4. killings resulting from police intervention, by sex, in the city of Rio de Janeiro between 2010 and 2013



Male / 99,50% Female / 0,50%
*Total - 1275 (80 not available)

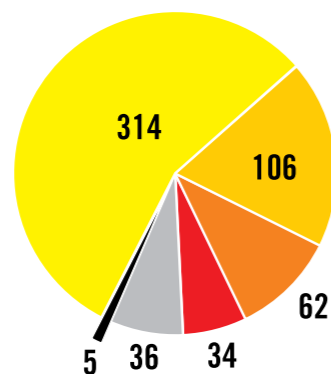
GRAPHIC 5. killings resulting from police intervention, by race/colour, in the city of Rio de Janeiro between 2010 and 2013



White 20,89% Black 79,11% (Brown 51,25% / Black 27,86%)
*Total - 1275 (155 not available)

Nearly all the victims of cases registered as killing resulting from police intervention are men (99.5%) and 79% are black. Although it is not possible to identify the age of the victims as a relevant percentage of cases, the information available (557 cases) indicates that 75% of victims of police lethality are young people between 15 and 29 years of age.

GRAPHIC 6. Killings resulting from police intervention, by age, in the city of Rio de Janeiro between 2010 and 2013



0 to 14 years / 0,9% 30 to 34 years / 11,13%
15 to 24 years / 56,37% 35 to 39 years / 6,10%
25 to 29 years / 19,03% 40 years or over / 6,46%
*Total - 1275 (718 not available)

58 Obtained on request from the Institute of Public Security, as explained in the methodology.

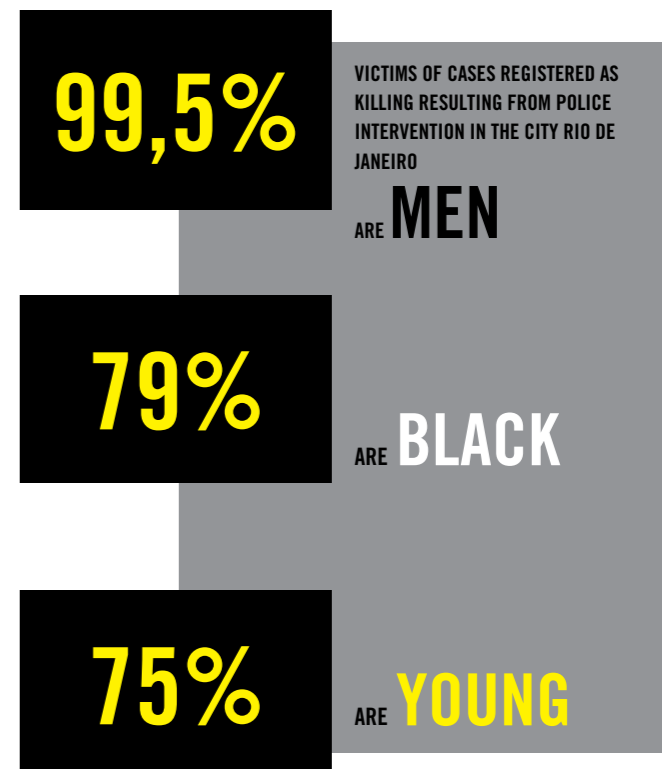
Public security policies in Brazil have the effect of criminalizing the poor, black population, particularly children and young people living in the favelas and peripheral neighbourhoods of the cities. According to the IACHR, the Brazilian State could be called to account, internationally, for “failing to take affirmative measures to reverse or change de jure or de facto discriminatory situations to the detriment of a certain group of people”⁵⁹.

Both the IACHR and the Inter-American Court of Human Rights have reiterated that States have the obligation to effectively guarantee equality, not merely by publishing laws. The IACHR has pointed out that “although Brazilian law does not permit discrimination, ostensibly guaranteeing apparent equality, in reality that is not the situation as, according to the existing studies, the State police tends to treat with unnecessary violence the persons subjected to its procedures, especially individuals with the features of the black race who live in marginalized areas (favelas)”. Based on a study of the situation in Brazil and various individual petitions that have been submitted for its analysis, the IACHR concluded that “merely passing laws without any practical effect does not guarantee the full enjoyment and exercise of rights”.

In this respect, the Inter-American Court has established the obligation for States to abstain from carrying out actions that are in any way “directly or indirectly intended to create situations of discrimination, de jure or de facto”⁶⁰. In other words, the principle of non-discrimination goes beyond just prohibiting deliberately discriminatory policies and practices, but also encompasses practices whose impact results in discrimination against certain categories of people, even when the intention to discriminate cannot be proven.

59 Inter-American Commission on Human Rights: Report No. 26/09, Case 12,440, Wallace de Almeida (Brazil), paragraphs 147 and 148.

60 See the case of Nadege Dorzema and others v. the Dominican Republic, Inter-American Court of Human Rights, paragraph 234.





Acari favela [Rio de Janeiro, 05/27/2015]
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EXTRAJUDICIAL EXECUTIONS, UNNECESSARY USE OF FORCE AND OTHER POLICE ABUSES IN ACARI

The favela of Acari, which has a population of around 22,000⁶¹, is located in the Zona Norte area of the city of Rio de Janeiro. It is known for its history of human rights violations by Civil and Military Police during security operations⁶² as well as for the death squads that have operated in the region⁶³.

In Acari, as in many favelas of the city of Rio de Janeiro, there is a structure in place for the sale of illegal drugs and a strong presence of armed criminal gangs. There is no permanent policing in the community, only sporadic police raids. According to reports from various residents, in Acari, as well as in other neighbourhoods and ‘bocas de fumo’⁶⁴, some police officers are involved in that trade, especially through the payment of “arrego” kickbacks, so that officers will turn a blind eye to local trafficking.

The enforced disappearance⁶⁵ of 11 youngsters in July 1990 (an episode known as the “Massacre of Acari”) and the fight for justice led by the so-called “Mothers of Acari” are cases that have been monitored by Amnesty International⁶⁶. Twenty-five years later, no one has been brought to justice for that crime – one of the most high-profile human rights violations in Brazil – and the day-to-day lives of local residents continue to be marked by police violence and impunity.

61 Source: CAVALLIERI, Fernando; VIAL, Adriana. Favelas na cidade do Rio de Janeiro: o quadro populacional com base no Censo 2010. Coleção Estudos Cariocas – Armazém de Dados (online). No. 20120501, May 2012. Instituto Municipal de Urbanismo Pereira Passos (IPP)/Special Secretariat for Development/Rio de Janeiro City Hall. Available at: <http://portalgeo.rio.rj.gov.br/estudoscaricocas/download/3190_Favelasna-cidadedoRiodeJaneiro_Censo_2010.PDF>. Accessed on 25/06/2015.

62 See Amnesty International report “We have come to take your souls: the caveirão and policing in Rio de Janeiro”, March 2006 (Index: AMR 19/007/2006).

63 See Amnesty International report “Beyond Despair: an agenda for human rights in Brazil”, September 1994 (Index: AMR 19/15/1994).

64 Illegal drug selling points in the city.

65 Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance states that “‘enforced disappearance’ is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. A/RES/61/177

66 See: Amnesty International Urgent Action of January 1992 demanding protection of the Mothers of Acari (UA 37/92, Index: AMR 19/01/92).

THE MASSACRE OF ACARI 25 YEARS OF IMPUNITY

ON 26 JULY 1990, 11 people, seven of them minors – mostly residents of Acari favela and the surrounding area –, who were staying on a farm a short distance outside of the city of Rio de Janeiro, were taken to an unknown location by a group of men who identified themselves as police officers. To this day, the youngsters' whereabouts has not been discovered and those responsible for their disappearance have not been brought to justice. In 1994, Amnesty International reported that the people who took the youngsters had been identified by the Military Police's intelligence service as officers from its 9th Battalion, based in Rocha Miranda, and detectives from the Cargo Theft Department of the 39th police station in Pavuna, both in the city of Rio de Janeiro. The investigation revealed that the Military Police officers involved had been extorting some of the victims prior to their forced disappearance⁶⁷.

The book entitled "Mothers of Acari: the story of a fight against impunity"⁶⁸ states that some of those responsible for the disappearances were linked to a death squad known as "Running Horses"⁶⁹ and this has been corroborated by several testimonies collected by Amnesty International

from local residents during the inquiries made at the time. Amnesty International also received information that the searches of possible body dumping sites conducted by the authorities were negligent and destructive, possibly resulting in permanent damage that hindered the investigations.

Edméia, Marilene, Ana Maria, Vera Lucia, and other mothers, unwilling to accept the disappearance of their children and the impunity of those responsible, spoke out to give visibility to the atrocious situation and their pain at not obtaining answers about the youngsters' whereabouts, giving rise to the "Mothers of Acari" movement. In the search for their children, the mothers visited clandestine cemeteries, offices, public administration services, police stations and prisons; they spoke to judges, police chiefs, security secretaries, police authorities and ministers⁷⁰. Yet, they still have not obtained any clear answers.

In 2010, the investigation into the case was closed without any charges having been brought against those responsible, due to a lack of evidence.

In January 1993, 47-year-old Edméia da Silva Euzébio, the mother of Luiz Henrique da Silva Euzébio and one of the mothers most committed to the fight for justice, was killed. She was murdered, together with Sheila Conceição, apparently for having obtained new information that would reveal the location of the disappeared youngsters. As she left Hélio Gomes Prison, in the district of Estácio, after having visited a prisoner there, she was jumped and killed in the car park of Praça Onze metro station. The charges against the alleged killers (including an ex-Military Police officer and a former state congressman) were not brought before the courts until 2011. The proceeding had been dragging on since 1998, without any conclusive answers from the state. In late 2014, a first hearing was held for that case, but by June 2015, 22 years after the murder of Edméia, the crime has still not been judged.

In the pictures below, from left to right, Amnesty International's former Secretary General, Pierre Sane, meets with mothers from Acari [Rio de Janeiro, 04/1995].
© C.J. RIPPER / IMAGENS DA TERRA

Public demonstration demands justice for victims of the Acari killings [Rio de Janeiro, 07/2010].
RICARDO CASSIANO/FOLHAPRESS

Artwork created by José Luis in honor of the mothers from Acari [Acari favela, Rio de Janeiro, 05/27/2015].
©BRUNO MORAIS/ANISTIA INTERNACIONAL

67 See Amnesty International report "Beyond Despair: an agenda for human rights in Brazil", September 1994 (Index: AMR 19/15/1994).

68 NOBRE, Carlos. Mães de Acari: uma história de luta contra a impunidade. Rio de Janeiro: Editora Relume Dumará, 1994.

69 See Amnesty International Report – Candelária and Vigário Geral 10 years on (AI Index: AMR 19/015/2003).

70 See text "20 anos do caso de Acari: não ao esquecimento, sim à Justiça", published in February 2010 on the website of Rede contra Violência. Available at: <<http://www.redecontraviolenca.org/Atividades/612.html>>. Accessed on: 25/06/2015.



ACARI

At the end of July 2014, Amnesty International received reports that police operations in Acari had intensified after the FIFA World Cup, which was hosted by Brazil between 12 June and 13 July 2014. One Military Police operation, on 17 July, left two young men, aged 19 and 17, dead. In a period of 20 days, Military Police were responsible for the killings of three other people in Acari. The reports indicated that the police operations were also marked by other rights violations, such as assaults of residents, unlawful break-ins and threats.

Because of the escalation in police violence, some residents and human rights defenders in Acari mobilized and made an appeal to Amnesty International and other human rights organizations. At the time, Amnesty International launched an Urgent Action⁷¹ and, since then, has been examining cases of police violence in the neighbourhood in greater detail.

The main objectives of Military Police operations in Acari have been to fight the illegal drug trade by seizing narcotics and weapons, as well as serving arrest warrants and search and seizure warrants. However, many police officers have acted unlawfully in the course of their work.

CASES OF KILLINGS RESULTING FROM POLICE INTERVENTION IN 2014

For planning and management purposes, the city and state of Rio de Janeiro are divided into Integrated Public Security Areas (AISPs). There are 39 AISPs⁷² in Rio de Janeiro State, each of which may cover several municipalities or, in larger towns, several districts. The AISPs are identified by a number and correspond to the geographical area covered by a given Military Police battalion with the same number. Each AISP also contains one or more Civil Police stations, which serve a delimited sub-area. All police actions carried out in a given sub-area are registered at the respective police station.

Despite various efforts to improve its public security policy, large numbers of deaths caused by on-duty police officers still occur in the city of Rio de Janeiro, many of which are extrajudicial executions. In 2014, the last year for which statistics are available, 580 cases of “killing resulting from police intervention / resistance followed by death” were recorded in the state and 244 in the capital⁷³. The AISP with most killings resulting from police intervention in the state was number 41⁷⁴, where 68 killings were recorded. That same year, only one Military Police officer was killed while on duty in that area, and none were killed in Acari.

AISP 41 corresponds to the operational area of the 41st Military Police battalion (MPB), which is based in the district of Irajá, in the Zona Norte area of the city of Rio de Janeiro. There are three Civil Police stations in this AISP, which cover specific neighbourhoods and sub-regions: the 27th, 31st and 39th police stations.

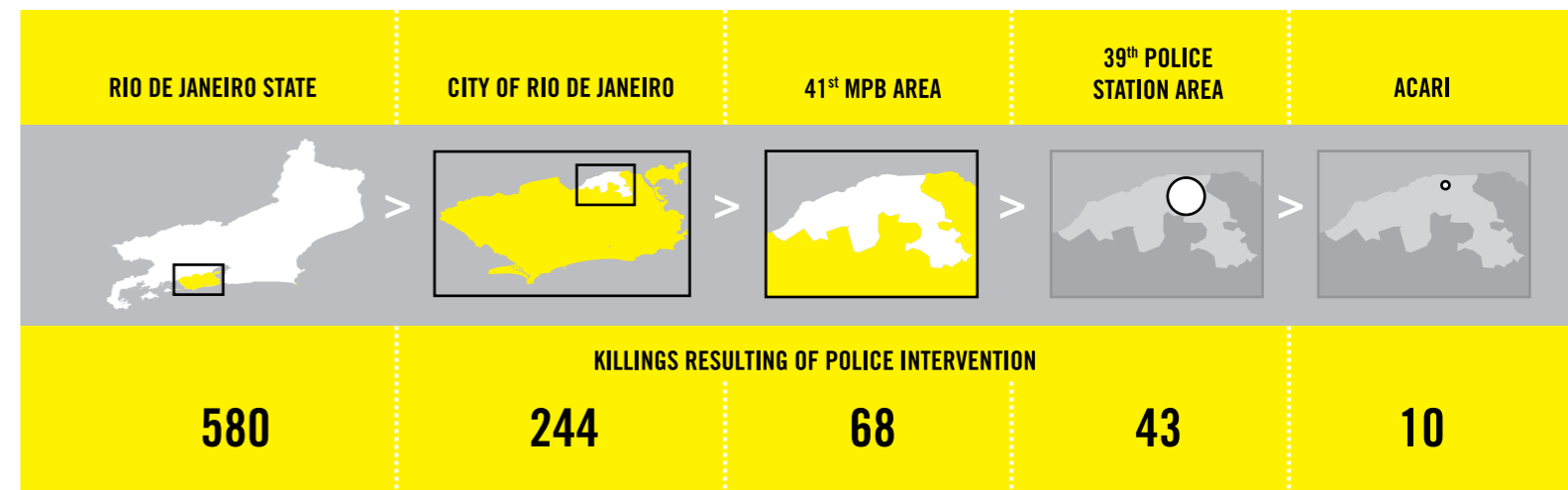
The 68 cases of “resistance followed by death” in the AISP were distributed between these three police districts as follows:

- 15 were recorded in the area covered by the 27th police station;
- 10 were recorded in the area covered by the 31st police station;
- 43 were recorded in the area covered by the 39th police station.

Thus, in 2014, the greatest number of killings resulting from police intervention / resistance followed by death” were recorded in the 39th police station. The neighbourhoods covered by that police station are Acari, Barros Filho, Costa Barros, Parque Colúmbia and Pavuna.

Civil Police incident reports in Rio de Janeiro State show that, in 2014, there were ten victims of killings resulting from police intervention in Acari, as specified in the graphic below. That same year, there were also another two killings of favela residents which were not registered as killings resulting from police intervention but as ordinary homicides. However, those two deaths also occurred within the context of police operations and there are even witnesses who claim that Military Police officers were responsible for those deaths. The two cases in question are described in the next section.

GRAPHIC 7. killings resulting from police intervention in Rio de Janeiro State, the city of Rio de Janeiro and specific areas of the capital in 2014



FONTE: IPP – ELABORAÇÃO PRÓPRIA

Of the ten homicides, four were committed by Military Police from the 41st MPB, four by the Special Police Operations Battalion (BOPE) and two by the Riot Police Battalion. The two deaths attributed to the Riot Police occurred in a major operation in Acari, in which police from the 41st MPB and the BOPE were also present.

However, the 41st MPB was responsible for the majority of deaths caused in police operations registered in the 39th police district in 2014. Looking at the cases of the 43 victims of killings resulting from police intervention registered in the 39th police district, we see that 32 of them were killed by Military Police from the 41st MPB.

While carrying out its study, Amnesty International collected information about the specific contexts of nine of the ten police killings in Acari in 2014, by accessing the homicide incident reports, interviewing witnesses, local residents and family members, visiting the crime scenes and obtaining photos. From analysis of the

⁷¹ See Amnesty International Urgent Action: “Nine Killed in Police Operation” (AMR19/009/2014).

⁷² The current Integrated Public Security Areas are numbered from 1 to 41; numbers 1 and 13 have been dissolved and their respective areas have been incorporated into other AISPs.

⁷³ According to data from the Institute of Public Security available at www.isp.rj.gov.br.

⁷⁴ AISP 41 covers the following neighbourhoods: Vila Cosmos, Vila da Penha, Vista Alegre, Irajá, Vicente de Carvalho, Acari, Barros Filho, Costa Barros, Pavuna, Parque Columbia, Colégio (part), Ricardo de Albuquerque, Anchieta, Guadalupe and Parque Anchieta.

TABLE 3. List of cases reported as killings resulting from police intervention in Acari in 2014. The names with * have been changed to guarantee their safety

VICTIM	DATE OF THE KILLING	AGE	BATTALION RESPONSIBLE
Leonardo*	14/02/2014	23	41 st MPB
Gustavo*	24/02/2014	31	BOPE
Ricardo*	24/02/2014	29	BOPE
Davi*	27/03/2014	23	41 st MPB
Pedro Ivo	17/07/2014	19	Riot police
Lucas*	17/07/2014	17	Riot police
Marcelo*	18/07/2014	38	41 st MPB
Vitor*	31/07/2014	21	BOPE
Roberto*	26/11/2014	40	41 st MPB
Bruno*	01/12/2014	30	BOPE

information, it was concluded that in all nine cases (described below), there is strong evidence to suggest that those killings constituted extrajudicial executions.

Witnesses who spoke to Amnesty International recounted that in four of the cases analysed, the victims were wounded or had surrendered when the police officers in question intentionally executed them with firearms. In two cases, the victim was executed without having been given an arrest warning or without posing a danger to the life of the police officer – in situations known as “Troy”⁷⁵. In another case, two youngsters were killed when one of them was on his way home from work and was talking to another who was in the street.

“THEY COME IN SHOOTING”

On 17 July 2014, the Military Police carried out an operation involving around 200 officers from various units. According to the police and the press, the raid was considered a success as large amounts of weapons and drugs were seized. According to local residents, the Military Police “came into Acari shooting”, killing the favela resident Pedro Ivo, aged 19, and Lucas*, aged 17⁷⁶.

Lethal force is only permitted as a last resort, then there is no other means of achieving the objective – i.e. avoiding loss of human life⁷⁷. The use of lethal force in situations that do not pose that level of danger should be considered disproportionate and, in the event of death, an arbitrary deprivation of life⁷⁸.

As stipulated in the UN Basic Principles, the use of firearms must not be permitted to protect property⁷⁹ or with the aim of arresting someone without assessing whether that person represents a danger to the life of others⁸⁰. The use of lethal force cannot be justified in any police operation with the objective of seizing illegal arms or drugs, unless a life is at risk.

⁷⁵ This term will be explained later in the section “Troy: a routine for an execution”.

⁷⁶ Ten years ago, in 2005, Amnesty International published a report entitled “They come in shooting”: policing socially excluded communities”, which denounced the disproportionate use of force in police operations in Brazilian favelas (AI Index: AMR 19/025/2005).

⁷⁷ Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/2006/53, paragraph 48. See also Principles 4 and 9 of the UN’s Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

⁷⁸ UN Human Rights Committee, Suarez de Guerrero v. Colombia. Communication 45/79, paragraph 13.3.

⁷⁹ Report to the General Assembly of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/66/330, paragraph 88. See also the Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/17/28, paragraph 61.

⁸⁰ See the Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/26/36, paragraph 95. See also the Human Rights Council Resolution on the promotion and protection of human rights in the context of peaceful protests, A/HRC/RES/25/38, paragraph 10; Report to the Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/17/28, paragraph 60; European Court of Human Rights, Case of Nachova and others v. Bulgaria, Applications Nos. 43577/98 and 43579/98, paragraph 95.

PEDRO IVO, AGED 19, AND LUCAS*, AGED 17, KILLED BY MILITARY POLICE OFFICERS FROM THE RIOT POLICE BATTALION ON 17/07/2014



Helena, Pedro Ivo’s mother, holds her son’s picture [Acari, Rio de Janeiro, 05/26/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

PEDRO IVO was 19 years old, worked at a food distribution centre in Irajá, and was engaged.

Before 8 am, on 17 July 2014, two days before his mother’s birthday, he stopped to talk briefly with a 17-year-old friend, Lucas. Pedro Ivo liked to evangelize and said to Lucas: “You coming to church on Sunday?”

While the youngsters were having a brief chat, Military Police from the Riot Police Battalion opened fire and everyone started to run. Pedro Ivo did not run and was hit by a bullet. Lucas was also shot. Their bodies fell to the ground, a metre apart.

Pedro Ivo fought to stay alive for a few moments, calling out for help. Meanwhile, police officers kicked him in the face and stamped on his head. Pedro was still alive when they started to torture him. One police officer said: “You’re going to die, scum!”

His brother, who saw Pedro Ivo’s corpse, said to Amnesty International: “Why was my brother’s face all purple? His skull was crushed. It looked like they had hit him in the face with the end of a rifle. Why would someone do that?”

The bodies remained on the floor for some hours, until the forensic team arrived. The residents were outraged and gathered around the police officers, who responded with tear gas grenades and pepper spray.

In the incident report prepared by the police officers, it was claimed that packs of ammunition, various cartridges, narcotics and a notebook containing notes about drug dealing were found on Pedro Ivo. It was also claimed that Lucas was carrying portable radio batteries and chargers.

Pedro Ivo’s mother, Helena Salvino da Silva, aged 61, and her other son reject the incident report, which stated the cause of death as “killing resulting from police intervention” and alleged that Pedro had resisted arrest. They also reject the attempt by the police to criminalize Pedro Ivo

after having executed him. According to Helena: “He was so innocent, he didn’t do drugs; he didn’t use cocaine or marijuana. Nothing like that was mentioned in the forensic report. The forensic expert himself said that my son’s death showed signs of an execution.”

Pedro Ivo’s brother reiterated, with indignation: “My brother had never touched a firearm, he’d never used drugs, he didn’t even drink”.

Helena remembers the anguish of losing her son: “When I was told that my son was dead, it felt so awful that I can’t even explain it.”

Other signs of violence can be seen in Helena’s home. There are marks on the wall and in a tree from rifle shots that passed over the wall to the street. But she does not feel intimidated from fighting for justice: “I know who my son was. [...] I wish the police would show more respect for the people in our community. It’s very painful seeing a child with a future ahead of him get shot in the back or the head.”

That day, the press reported that two “suspects” had been killed in the police operation in Acari, which involved around 200 Military Police officers from the Riot Police Battalion, the Special Police Operations Battalion (BOPE), the Police Dogs Unit and the Airborne Group, which used a helicopter. The operation was considered a success and a large quantity of marijuana was reportedly seized⁸¹.

In June 2015, the investigation into the case had not yet been completed by the 39th Police Station.

“TROY”: A ROUTINE FOR AN EXECUTION

In interviews with Amnesty International, residents of Acari and members of the Civil Police described a strategy carried out by Military Police in the city’s favelas, whereby people are executed without being given an arrest warning or without posing a danger to the life of the police officer.

“Troy” is the name given to situations in which police officers hide in a resident’s home and lay an ambush to execute a specific person. Officers often enter the favela during a police operation and may hide for several hours, staying behind after the raid is over. In some cases, the police call the “caveirão”⁸² to come and get them once they have carried out the ambush.

This tactic is well known and widely used, especially by the Military Police, its name being inspired by the story of the “Trojan Horse”. A Civil Police officer described an example of “Troy” to Amnesty International: “A large group of police officers, with various vehicles, enters the favela, making lots of noise, and then leaves. Except that a few officers stay behind in the favela, hiding in a house waiting for the traffickers to appear. It’s an execution tactic. No one wants to arrest anyone. It can’t even be called a tactic really, can it? But what’s the idea behind it? When the traffickers appear, the police officers who are hiding execute them.”

⁸¹ <http://g1.globo.com/rio-de-janeiro/noticia/2014/07/acao-da-pm-tem-500-kg-de-maconha-e-baleados-em-acari-suburbio-do-rio.html> Accessed on 01/07/2015.

⁸² The “caveirão” is an armoured car, adapted to be a military vehicle, which is commonly used in Military Police operations in the favelas of Rio de Janeiro. See the Amnesty International document published in 2006, “We have come to take your souls: the caveirão and policing in Rio de Janeiro”, Index: AMR 19/007/2006.

DAVI*, AGED 25, KILLED BY MILITARY POLICE FROM THE 41ST MPB ON 27/03/2014



Location where the “Troy” which killed Davi was set up, according to local witnesses [Acari, Rio de Janeiro, 05/26/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

DAVI was 25 years old when he was killed by Military Police officers from the 41st MPB, at around 11:30 am on 27 March 2014, in Acari. He was walking with two other lads near a house where a group of police officers were positioned for a “Troy” attack, when the officers started shooting down in their direction, without any warning. Davi was hit in the leg. He was armed, but did not shoot. He managed to drag himself a few metres, but the police surrounded him. Many people gathered around the area, but the police did not let anyone get very close.

Davi was still alive and, as he lay on the ground, he asked for help, saying: “Take me to hospital; I’m going to die!”. The police officers prevented him from being taken for treatment. His family and other people wanted to take him, but the police did not let them. One police officer picked up a large weapon and said that he was going to “tear him apart”. He even added: “He likes shooting at the police, doesn’t he? We’re going to fill him with holes, from top to bottom. Get her [Davi’s mother] out of here.” But Davi’s mother threw herself on top of her son’s body and begged the police not to do that.

When Davi died, his mother said: “Bastards, you killed my son! Why didn’t you arrest him?” One police officer reacted, punching her. A prayer circle formed around Davi’s body.

Even though the incident took place at around 11:30 am, his body was not taken away until nearly 16:30 pm, after the crime scene had been examined. This procedure is quite rare in Acari, so when the forensic team arrived, it was applauded by the locals.

According to Acari residents, the owner of the house where the police were lying in wait was not home at the time. After the episode, she sold her house and moved away from the community out of fear of reprisals.

Davi’s wife was pregnant when he was killed. One of the police officers said to her: “I was the one who killed him. But rather him than me.” When she questioned him about the incident, the officer answered: “We’ll be back. You’ve got a real cheek! You’ll see!”

The case was registered as a “killing resulting from police intervention” and the sequence of events described in the incident report states that a police operation was underway in Acari when the squad was shot at; an officer returned rifle fire against the people shooting at the police, “retaliating against the unjust aggression”.

In June 2015, the investigation into the case had not yet been completed by the 39th Police Station.

In some of the cases documented by Amnesty International, the Military Police did not provide medical assistance to people wounded as a result of the use of force and firearms during police operations.

According to the UN Basic Principles, police forces should guarantee that immediate assistance and medical care is provided to wounded persons. The relatives of victims should also be found and informed of what has happened, as quickly as possible⁸³.

In an interview with Amnesty International, one Civil Police officer said: “When they arrive at the police station, the Military Police tell two very common versions. The first version is that when they saw the individual they told him that he was under arrest. ‘The suspects shot at us and we shot back. They were wounded and we took them to hospital.’ In that version, there can’t be a forensic examination of the scene, because they’ve already removed the body; that prevents the forensic examination. When you take the victims away from the place where they were shot, you also destroy the trajectory calculation, among other things. The second version is that there was an exchange of fire, the suspects died and the bodies are in such-and-such a place.”

MARCELO*, AGED 38, KILLED BY MILITARY POLICE FROM THE 41ST MPB ON 18/07/2014



Location pointed out by local witnesses where Marcelo was shot by hidden police officers on top of a construction [Acari, Rio de Janeiro, 05/27/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

MARCELO was 38 years old when he was killed by Military Police officers from the 41st MPB, at around midnight on 18 July 2014, in a place known as “S”, in Acari.

He was near his home talking to a friend when he heard fireworks⁸⁴. Marcelo went home to get a rucksack, told his wife that the police were in Rua Guaiuba and asked her to go to her mother’s house. Shortly after leaving the house, Marcelo was walking down the street, alone, when he was

⁸³ See the Report to the Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/26/36, paragraph 77.

⁸⁴ When there is a police operation in a favela where illegal drug selling takes place, the criminal gangs often let off fireworks as a way of warning others about the presence of police in the area.

shot in the leg by police officers carrying out a “Troy” exercise on the second floor of a house. No warning or arrest order was given.

An eye witness told Amnesty International that, when she came out of her house to see what was going on, the police said to her: “Run! Fuck off, bitch! Get back in your house!” Another resident tried to help Marcelo and pull him to safety, but she heard a man shout: “Let go of him!” Marcelo told her to go away, otherwise the police would kill her too.

Marcelo’s wife was called. When she reached the place where he had been shot, the police had already taken his body to Irajá Hospital in the “caveirão” and she only saw the blood on the ground.

The police who shot at Marcelo were hiding on the roof of a house. Earlier that day, there had been a police incursion. Residents believe that a group of police had stayed hidden until that night.

When Marcelo’s wife arrived at the hospital, the doctor told her that he was already dead. The doctor also said that “there was a living person with him” in the “caveirão”.

Marcelo had his identity documents on him when he was killed, but they disappeared. Therefore, in the incident report, the victim is described as “unidentified”. The case was officially registered as “killing resulting from police intervention”. The sequence of events described in the incident report states that Military Police officers were patrolling the area when they were shot at. The report claims that the officers defended themselves, giving rise to an intense exchange of fire. It is claimed that one of the police officers found the victim [Marcelo] in an alley with firearm wounds on his leg and thorax, and the officer assisted him, taking him to hospital.

In June 2015, the investigation into the case had not yet been completed by the 39th Police Station.

“DID YOU HAVE TO KILL HIM? WHY DIDN’T YOU ARREST HIM?”

In his mission to Brazil in November 2007, the United Nations Special Rapporteur on extrajudicial executions, Dr Philip Alston, explained: “Extrajudicial executions are committed by police who murder rather than arrest criminal suspects, and also during large-scale confrontational ‘war’ style policing, in which excessive use of force results in the deaths of suspected criminals and bystanders”⁸⁵.

Four of the cases of “killing resulting from police intervention” in Acari, described below, share a common feature: the victims had surrendered and/or were wounded and, therefore, did not pose a risk to the Military Police when they were executed with firearms.

Law enforcement officials may only use force and limit a person’s right to life when there is a legitimate objective. Suspects who are wounded or have surrendered and, therefore, do not pose a danger to police or third parties, should either be assisted or arrested. The only legitimate objective for the use of lethal force is to save someone’s life, including that of a police officer.⁸⁶

⁸⁵ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/11/2/Add.2, paragraph 9.

⁸⁶ See the Report to the Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/26/36, paragraph 58.

LEONARDO*, AGED 23,
KILLED BY MILITARY POLICE FROM THE 41ST MPB ON 14/02/2014



Gunshot hole in a house wall in Acari [Rio de Janeiro, 05/26/2015]. Picture is only for illustration purposes, not evidence for any of the mentioned cases. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

LEONARDO was 23 years old when he was killed in a police operation of the 41st MPB in the favela of Acari, at about 9 am on 14 February 2014.

He was with a group of men linked to the trade in illegal drugs when a police raid started. The group ran away and hid. According to accounts of family members and witnesses, the police officers went after them and shouted “police!”. Leonardo was armed with a rifle and when he turned away from the officers to run, he was shot in the arm and fell to the ground. The police continued to shoot at the other people in the group. One of them was hit in the leg, but managed to escape. Some members of the group tried, unsuccessfully, to carry Leonardo to safety. In the end, they all managed to get away, except Leonardo.

According to local residents, when Leonardo was lying on the ground, he started saying: “My God, Lord God, don’t let me suffer! It hurts so much! Call my wife and my daughter. Forgive me! Mum, why didn’t I listen to you?”

One local resident tried to help Leonardo when the first bullet hit him but a police officer aimed his gun at her face and ordered her to go into her house. The police officers then came closer and shot Leonardo again. He lay agonizing for about ten minutes, without any type of assistance, until he died. His body remained where it lay until 2 pm, in full view of any onlookers or passers-by. Then it was thrown into the police van.

During that time, members of Leonardo’s family shouted at the police: “You pigs! Did you have to kill him? Why didn’t you arrest him?”

The police stole the gold chain and watch that Leonardo was wearing and only gave the family his house key.

In June 2015, the investigation into the case had not yet been completed by the 39th Police Station.

GUSTAVO*, AGED 31, AND RICARDO*, AGED 29,
KILLED BY MILITARY POLICE OFFICERS FROM THE BOPE ON 24/02/2014

GUSTAVO AND RICARDO were killed, in Acari, on 24 February 2014, a week after Carnival.

Between 7 and 8 am, Gustavo was going back home to get a bag that he had forgotten. As he turned into his street and walked into an alley, the first bullet hit him. According to local residents, on that occasion there was no confrontation with the Special Police Operations Battalion (BOPE).

An eye witness confirmed that Gustavo fell to the ground with his hands in the air and shouted: “You got me, you got me!” A police officer then approached him, took his bag, look at what was inside and said: “I haven’t got you yet. I want your soul!” The officer then executed him with another shot.

According to the incident report, there was another lad near Gustavo, who was grazed by bullets on the head and leg. In the report, the police state that they assisted the lad and took him to Acari Hospital, as no weapons were found on him.

The news that Gustavo had been killed quickly spread. Four BOPE officers surrounded the body and several residents came out of their houses to see what had happened. The officers did not let anyone pass and did not want anyone to come near. Many residents gathered and the crowd started to get rowdy. To clear the crowd, the officers shot bursts of gunfire into the air. Some women who were taking their children to the nursery school were insulted by the police officers: “Fucking hell, get out of the middle of the road, you stupid bitches! You’ll get hit by a bullet.”

Then, BOPE officers threw tear gas grenades at the crowd. A community leader who was trying to mediate the situation said: “They threw a grenade, aiming for my head”. Amnesty International had access to one of the tear gas canisters used that day, which had been kept by a local resident.

In the middle of the commotion, another resident tried to make a call from his mobile phone – from the roof of his house – to the Human Rights Commission of the Legislative Assembly of Rio de Janeiro State (ALERJ). A BOPE officer aimed his rifle at him and said: “I’m watching you. If I wanted to kill you, I would. Who are you calling?” The resident replied: “I’m calling the Human Rights Commission”. The police officer threatened him: “Fuck you and fuck Marcelo Freixo⁸⁷. Tell Marcelo Freixo to come here and I’ll kill both of you right now.”

Moments later, at around 9:40 am, still within the context of the police operation, Ricardo, who was involved in selling illegal drugs in Acari, returned home and told his wife to go out. Reportedly, he said to her: “Leave, because if they catch me, I’m going to die”. Then, the Military Police burst into their home and Ricardo tried to get away by jumping out of a window. The police shot him and threw him, still alive, into a vehicle. According to family members, there was no exchange of fire inside the house. Relatives immediately went to Carlos Chagas Hospital, but Ricardo was not there yet. The BOPE vehicle did not arrive at the hospital until an hour later, by which time Ricardo was already dead.

In June 2015, the investigation into the case had not yet been completed by the 39th Police Station.



Acari favela [Rio de Janeiro, 05/26/2015]. Picture is only for illustration purposes, not evidence for any of the mentioned cases. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

⁸⁷ Marcelo Freixo has been a state congressman in Rio de Janeiro since 2007 and is the president of the ALERJ Human Rights Commission. He currently lives under police protection due to the countless threats he has received for denouncing the actions of the militias in the state.

In relation to the incidents in Acari that have been documented by Amnesty International, the organization has observed that the rule that force should only be used in exceptional circumstances is not observed by security forces. On the contrary, force – particularly firearms – is used repeatedly by Military Police in operations carried out in the favela.

As established in the UN Basic Principles, Military Police and other members of the security forces must only use firearms to protect themselves against threats to their own or someone else's life, and only when less extreme means are unable to achieve the legitimate objective⁸⁸. When it is strictly necessary to use firearms, in accordance with the principles of proportionality and moderation, law enforcement officials are required to limit, as far as possible, the injury and harm caused to the aggressor⁸⁹.

Therefore, police officers should have resources, weapons and equipment that enable the application of non-lethal force in their methods of deterrence and legitimate suppression of violence and crime⁹⁰. According to official information received by Amnesty International, the 41st Military Police Battalion, which is responsible for visible policing in the Acari area, is not equipped with any less lethal weapons.

The security forces frequently **USE FIREARMS INDISCRIMINATELY**, without any justification. There is considerable evidence that deaths categorized as killings resulting from police intervention do **NOT ALWAYS OCCUR IN SITUATIONS OF CONFRONTATION** and that the victims are nearly always residents of favelas and poor neighbourhoods.

The UN Special Rapporteur on extrajudicial executions expressed his concern about the widespread perception among favela residents that police operations are planned with the aim of killing poor, black, young men. In his view, the official “war” rhetoric, the purchase of apparatus of war and violent police symbols only serve to make killings by police broadly accepted⁹¹.

ROBERTO*, AGED 39, KILLED BY MILITARY POLICE FROM THE 41ST MPB ON 26/11/2014



“Caveirão” in Acari [Rio de Janeiro, 13/6/2008]. Picture is only for illustration purposes, not evidence for any of the mentioned cases. ©AGÊNCIA ESTADO

ROBERTO was 39 years old when he was killed by Military Police officers from the 41st MPB, at around 6:30 am on 26 November 2014, in Acari.

The officers approached Roberto – who was alone and was not carrying a firearm – near Beco do Puma, a known drug-selling point in Acari.

According to an eye witness, the police shouted: “Don’t move!” Roberto did not try to run away and simply put his hands in the air. Just then, the police officers shot at him.

A local resident, who was taking her children to school, saw everything. Deeply shocked at having witnessed the execution, all she could say was: “Gosh, what was that?” The officers just said to her: “You didn’t see anything!” After that, they threw Roberto into the “caveirão” and drove away.

As soon as Roberto’s family heard what had happened, they went to the hospital. The family says that the police drove around with Roberto in the vehicle for 30 minutes before arriving at the hospital, which prevented any chance of avoiding his death.

One resident said, angrily: “There was no need to kill that guy. They could have arrested him. And if they’d taken him to hospital, we would have survived.”

The case was registered by the officers as a “killing resulting from police intervention”. They said that they were participating in an operation in the community when they were shot at and defended themselves against the “unjust aggression” by shooting back with their rifles. The report states that, at the scene of the incident, the officers found the “national” lying on the ground with a pistol in his hands. According to the report, they then assisted Roberto, who died in hospital.

In June 2015, the investigation into the case had not yet been completed by the 39th Police Station.

⁸⁸ Principle 9 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

⁸⁹ Inter-American Commission on Human Rights (IACHR) Report on Citizen Security and Human Rights, paragraph 119, available at: <http://cidh.oas.org/pdf%20files/SEGURIDAD%20CIUDADANA%202009%20ENG.pdf>. Accessed on 1 July 2015.

⁹⁰ Principle 2 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

⁹¹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Dr Philip Alston. Mission to Brazil. A/HRC/11/2Add.2 paragraph 26.

VITOR*, AGED 21,
KILLED BY MILITARY POLICE FROM THE BOPE ON 31/07/2014



Location where Vitor was shot by police officers. [Acari favela, Rio de Janeiro, 05/27/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

VITOR was 21 years old when he was killed in a BOPE police operation in the favela of Acari, at about 8 am on 31 July 2014.

That day, Vitor went out to buy food for his dog. On his way to visit a friend, he got caught up in a commotion in the street due to a Military Police operation that was underway in the favela. So, we went into his friend's house to take shelter. According to accounts given to Amnesty International by residents of the favela, the police ordered Vitor to come out of the house, then shot him in the leg. He was not armed, was only carrying a small radio and there was no exchange of gunfire.

While he was on the floor, Vitor begged: "Don't kill me! Arrest me; don't do it!" A favela resident also shouted out: "Don't do that to him!" But the police officers walked closer to him and executed him with two shots. Before one of the shots, an officer lifted up Vitor's cap and said: "This one's a goner".

The police rolled the body in a sheet and took it to Carlos Chagas Hospital. According to the incident report, two police officers said that "as they entered the favela, they were shot at and, when they shot back, they hit one of the attackers". No forensic examination of the scene was carried out. According to local residents, a witness of the killing was very frightened and decided to move to another state, out of fear of reprisals from the police.

Vitor's murder caused outrage among his family. One family member said: "I've never been as afraid of the police as I am now. They're cowards. I don't believe in justice, as it's getting worse every day. There's no point arresting one of those police officers; it won't bring Vitor back. The police should arrest people; they don't have the right to just kill them. When the police come into the favela, I start to panic. I throw myself onto the floor and don't go out of the house. I was deeply shocked; I've been traumatized".

In June 2015, the investigation into the case had not yet been completed by the 39th Police Station.

**STRAY BULLETS, THE "CAVEIRÃO" AND THE USE OF HEAVY WEAPONS
IN FAVELAS**

Deaths caused by so-called "stray bullets" are common in Rio de Janeiro and elsewhere in Brazil. In a context of police operations or exchanges of fire between police and criminal gangs (involving heavy weapons such as rifles), people are wounded or even killed by splinters or projectiles from firearms that can penetrate the walls of houses.

During police operations, as well as rifles and other heavy weapons, armoured cars known as "caveirões" are also used. The use of this type of vehicle has resulted in countless rights violations in the poor peripheral neighbourhoods of Rio de Janeiro.

According to a public defender who spoke to Amnesty International: "Depending on the rifle, the projectile can travel up to a kilometre in two seconds. It's stupid; those types of weapons should not be allowed. That's a weapon of war and shouldn't be used for policing a densely populated urban area. It's thoroughly unacceptable. As long as the police continue to patrol with rifles, those incidents will keep happening."

In another interview, a Civil Police chief heavily criticized the use of rifles by security forces in Rio de Janeiro. He said that Military Police squads do not want to disarm and that the liberal use of firearms is a culture that needs to be deconstructed. According to him, "Civil Police also want to carry rifles; even the forensic teams want to carry rifles".

In addition to the ten deaths registered in Acari in 2014 as killings resulting from police intervention / resistance followed by death", there are other cases of civilians being killed within the context of police operations. Those other homicides were not recorded as killings resulting from police intervention / resistance followed by death" and so do not appear in the official statistics as deaths caused by the Military Police during raids.

A Civil Police officer interviewed by Amnesty International explained that those homicides are recorded as "perpetrator unknown". He asked: "The big unanswered question is: who pulled the trigger? It doesn't matter who pulled it. If the action of the police officer generated a conflict to the point that someone died, that public policy is wrong."

In general, in cases of deaths that occur in the context of police operations but are not registered as killings resulting from police intervention, it is unlikely that the investigation will identify the person who fired the shots or bring to account the police officers responsible for the operation that placed lives at risk.

JOÃO CARLOS GERALDO MARTINS, AGED 39, KILLED DURING AN OPERATION OF THE 41ST MPB ON 04/08/2014



Mother holds João Carlos' Picture.
[Acari, Rio de Janeiro, 27/5/2015].
©BRUNO MORAIS/ANISTIA INTERNACIONAL

JOÃO CARLOS was killed during a police operation of the 41st MPB in Acari, on 4 August 2014.

Early that morning, at around 8 am, police approached a young man called Marcos*, who was unarmed and had no drugs in his possession. He was thrown onto the ground and three police officers pointed weapons at his head. Two women from the favela started shouting at them not to shoot. The officers arrested Marcos and one of them said: "Thank them for the fact that you're still alive". Marcos was put in a "caveirão" and taken to the police station at around 7 pm. He had been kept in the vehicle all day while the police operation was carried out.

Later in the operation, there was an exchange of fire between police – who were in the armoured vehicle – and a group of armed criminals outside an ice factory. Several favela residents state that the police officers were visibly under the influence of drugs that day. In the middle of the shootout, João was hit. After being shot, he could have been taken quickly to receive medical attention, but the police officers did not allow it. Only after 20 minutes did workers from the factory manage to take João to hospital, where he died.

João was married, had a 16-year-old son and worked as a cultural promoter. He was known as "João forró" in reference to the forró dances that he organized every Saturday in the favela.

João's mother talks about her son with great sadness: "My son was a very good person. I have a pain in my chest, which is the wound that has been left behind. There's no operation or

medicine to cure that."

The investigation into the case is being conducted by the Homicide Division of the city of Rio de Janeiro.

The use of the "caveirão" has been severely criticized by national and international human rights organizations as it is a military vehicle which is not appropriate for patrolling areas with high population densities like favelas. Moreover, the necessary control is not in place to ensure that its use does not give rise to more serious abuses. In his report on Brazil, the UN Special Rapporteur, Dr Philip Alston, recommended that those vehicles be fitted with audiovisual equipment that could record the actions of the police and that the recordings be regularly monitored⁹².

In 2005, Amnesty International documented the death of 17-year-old Michel Lima da Silva. During a BOPE raid in Acari, on 1 September 2005, Michel was hit

⁹² Report to the General Assembly of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/11/2/Add.2, paragraph 79.



Roberto Carlos Square where Joel was shot by the "caveirão" [Acari, Rio de Janeiro, 05/26/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL



The bullet which shattered Joel's femoral head and perforated his intestines [Acari, Rio de Janeiro, 05/26/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

in the head by a bullet shot from the "caveirão"⁹³. His body was then attached to a hook on the vehicle which proceeded to drive through the favela displaying the corpse. There are reports that money was demanded to return the body. On the same day, about an hour later, Sanicleide Lima Galvão, aged 46, was sitting on the steps of her clothes shop with her grandson on her lap and her son next to her. When the "caveirão" turned the corner, a bullet hit Sanicleide in the chest and she died.

In the course of this study, Amnesty International also documented the case of 19-year-old Joel, who was shot during a police operation in Acari, on 4 February 2010, by a Military Police officer from the 9th MPB, from inside a "caveirão", in broad daylight. Joel was walking down the street with his friend, saw the vehicle and said: "Let's not run, Pedro. Let's walk. I'm a worker, I'm not going to run."

When the youngster was hit, there was no exchange of fire or confrontation. Joel saw the flash of the bullet coming out of the "caveirão". Other witnesses also confirmed that the shot came from inside the armoured vehicle. The projectile shattered Joel's thigh and perforated his intestines, causing haemorrhaging. Police officers went over to him and wanted to take him into the "caveirão", but a woman from the favela stopped them from doing so without the presence of Joel's father, as she was afraid that the youngster would be killed. He was taken to Getúlio Vargas State Hospital, together with his father, and survived, but had to have five operations to his hip and two to his stomach, as well as having a prosthesis fitted. He retired due to disability in October 2013. To date, Joel has not received any compensation from the state.

Despite these high-profile cases and the repeated condemnation of the use of the "caveirão", the Rio de Janeiro police continue to use those vehicles without the necessary safeguards to monitor their use and prevent violations of human rights.

⁹³ See Amnesty International report: "We have come to take your souls: the caveirão and policing in Rio de Janeiro" (Index AI: AMR 19/007/2006).

ANA CLAUDIA GERMANO COUTINHO, AGED 29, KILLED BY MILITARY POLICE FROM THE 41ST MPB ON 26/11/2014



Ana Claudia's son hold his murdered mother Picture [Acari, Rio de Janeiro, 05/26/2015].
©BRUNO MORAIS/ANISTIA INTERNACIONAL

ANA CLAUDIA lived in Acari favela. She was 29 years old, had four children and was roughly 20 weeks pregnant when she was killed by Military Police from the 41st MPB.

On 26 November 2014, Ana Claudia left home at about 10 am to pick up her son, who had a fever, from her mother-in-law's house to take him to see the doctor. As she left the house, she was hit by a fire-arm shot from inside the "caveirão", which was being used in a police operation that morning. According to the autopsy report, the bullet hit part of her face and passed through her neck, causing laceration of the left carotid artery, and her death. Local residents witnessed her demise.

Ana Claudia's siblings asked the police for help, but no assistance was offered. Consequently, her siblings took her themselves to Raul Gazola Hospital, where her death was confirmed.

Witnesses told Amnesty International that, that morning, the "caveirão" had waited for more than half an hour outside Ana Claudia's mother's house, after an exchange of gunfire that had taken place earlier. Ana Claudia's mother recounted that "she [Ana Cláudia] was going to pick up her son from her mother-in-law's house. But she never made it there. She leant against the corner and they shot at her."

Ana Claudia's mother is 60 years old and collects empty tin cans to make a living. In 1994, another of her daughters, Cátia Cilene da Conceição Silva, who was eight months pregnant at the time, was killed by Military Police. Her family has never received any compensation from the state. Describing the death of her daughter Ana Claudia in 2014,

she explained that: "At the time she died, there was no exchange of fire. They did it out of sheer evil. It's hard to bring a child into the world and lose her like that, for no reason, out of cowardice. No mother can accept that."

She also explained how she is afraid to file a complaint or pressure the police. "No, I don't want anything to do with the police. They might do the same thing they did with Edméia. I'm scared of them", she said, referring to Edméia da Silva Euzébio (see Massacre of Acari case).

The cause of Ana Claudia's death was recorded as "killing caused by firearm projectile" and is being investigated by the Homicide Division.

FAVELA RESIDENTS AT RISK: OTHER POLICE ABUSES

In addition to fatal victims, Military Police operations in Acari have resulted in other human rights violations. Favela residents say that, during police incursions, they have been subjected to intimidation, disrespect and assaults. Killings caused by the police are only the tip of the iceberg in a series of violations of the rights of local residents.

Amnesty International has documented several cases of physical assaults, arbitrary break-ins of homes, threats and thefts. These situations occur frequently in Military Police operations.

BREAK-INS, PHYSICAL ASSAULTS AND THEFT

One of the violations most reported by residents of Acari concerns the use of a skeleton key that can open any door, but then renders the lock unusable. The skeleton key is used by Military Police to enter homes in search of suspects or to set "Troy" ambushes, as explained above. When the skeleton key is not used, the police enter by force, breaking doors or windows. In the majority of cases, they either have no search warrant or it is not shown to the residents.

In none of the accounts heard by Amnesty International did the victims of this type of violation see a court order giving the police permission to enter their homes. On many occasions, the houses are empty, although there are cases of residents being burst in on in their own homes. Residents who told of unlawful break-ins of their homes also said that the Military Police stole money, domestic appliances and food.

One woman told Amnesty International: "On the same day, they broke into my house and my neighbour's house. They kicked in his front door and stole his Christmas bonus, some new trainers, which were still in their box, and a computer. The police turned the whole house upside down. They don't knock; they jump over the wall and use a skeleton key to get in. They usually break into people's houses while they're at work."

Sexual harassment is also commonplace. In interviews with Acari residents, Amnesty International heard stories of women who are afraid of being sexually abused by Military Police officers or who have been verbally abused by them.

HOME BROKEN INTO AND TWO TEENAGE GIRLS ASSAULTED BY MILITARY POLICE FROM THE BOPE

In 2014, the home of Maria*, in Acari, was broken into by Military Police from the BOPE at around 7:15 am. She was not home at the time, because she had gone to drop one of her children off at school. Lara*, aged 17, was leaving the house to go to school, while Maria's the other teenage daughter, Ruth*, aged 15, was still asleep with her five-year-old brother.

As Lara was leaving the house, she was approached by five police officers, who prevented her from going out and broke into the house. She said that she was going to school, but they said she would have to miss school that day. "That's when they went in, and started rummaging through everything and insulting me", she explains. Lara recounts that the officers turned the house upside down, looked under the stairs and asked about the neighbours.

"Who lives here?", one of the officers asked. "I don't know, officer", answered Lara. "You must know; if you live here, you know who else lives here, you bitch", he said. "No, I live in that other house with my mum", Lara explained. Then the police officer said to her: "It must be some shitty little crook that you don't want to tell us about, you fucking bitch".

The police officers continued with the verbal assaults and Lara tried to leave the house. When they ordered her to come back inside, she said that she was going to get her mother. Then, one of the officers intimidated her, saying "you're not going to come in, eh?", and started beating her, together with another officer. They kicked her in the back and Lara fell on the floor. They continued



Acari favela, Rio de Janeiro, 05/26/2015. Picture is only for illustration purposes, not evidence for any of the mentioned cases. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

insulting her: “We’re just doing our job, you slut! You’re really full of yourself; you’re just the trashy wife of a fucking crook! You think we don’t know that you’re just pretending that you’re going to school?”

Ruth’s sister woke up, frightened, and one of the police officers went into her room, asking the names of the neighbours. She did not want to tell him. Ruth remembers: “They came in, pushed me into the room and punched me in the chest. They said that I was being cocky and I replied that I had no obligation to tell them the names of the neighbours. Then they grabbed me by the hair and started slapping my face. They said that I was insolent and needed to learn to respect the police, and that I was a crook’s wife.”

Maria told us that her daughters managed to telephone her. They were crying and saying that the house was full of police, who had hit them.

The mother ran home and found the daughters still crying. The police officers had left by then. Maria recalls bitterly: “I ran after them. But when I got out there, a guy held me back. If I’d gone and found them, they would have killed me or done something even worse, because I would have really gone for them. I was so angry. As a mother, who has given birth, I don’t hit my daughters, so why should others come and hit them? I won’t have it!”

That same day, Maria lodged a complaint with the operation commanders about what had happened, but not action was taken.

CHILDREN IN DANGER

Rio de Janeiro State has failed about its duty to ensure, as an absolute priority⁹⁴, the right to life of children and teenagers, guaranteeing protection against all forms of violence and cruelty. The operations of the Military Police in Acari have placed the physical and psychological integrity of children and adolescents at risk.

94 Convention on the Rights of the Child, Articles 6 to 19; Child and Adolescent Statute, Articles 4 and 5.

A community nursery in Acari has, on several occasions, been caught in the midst of clashes between police and criminals. In the month of April 2015 alone, the nursery was closed to the 173 children enrolled there – whose ages range from six months to four years – on three different days, due to police operations, causing many of the mothers to miss days of work.

In an interview with Amnesty International, one employee of the nursery said that, when there is a police operation in Acari “the children cry. They get very upset. We have to put them on our laps and hug them so that they feel safe. They get scared. The children are frightened when the police are mentioned. Unfortunately, the police really don’t respect anything. It shouldn’t be like that, should it?”

In 2011, one operation used a helicopter, from which police **SHOT DOWN IN THE DIRECTION OF THE NURSERY**. The director had to contact the commander of the operation for him to order the shooting to stop, as **CHILDREN AND EMPLOYEES WERE AT RISK**.

Daycare in Acari favela [Rio de Janeiro, 05/26/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL





Daycare in Acari favela [Rio de Janeiro, 05/26/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

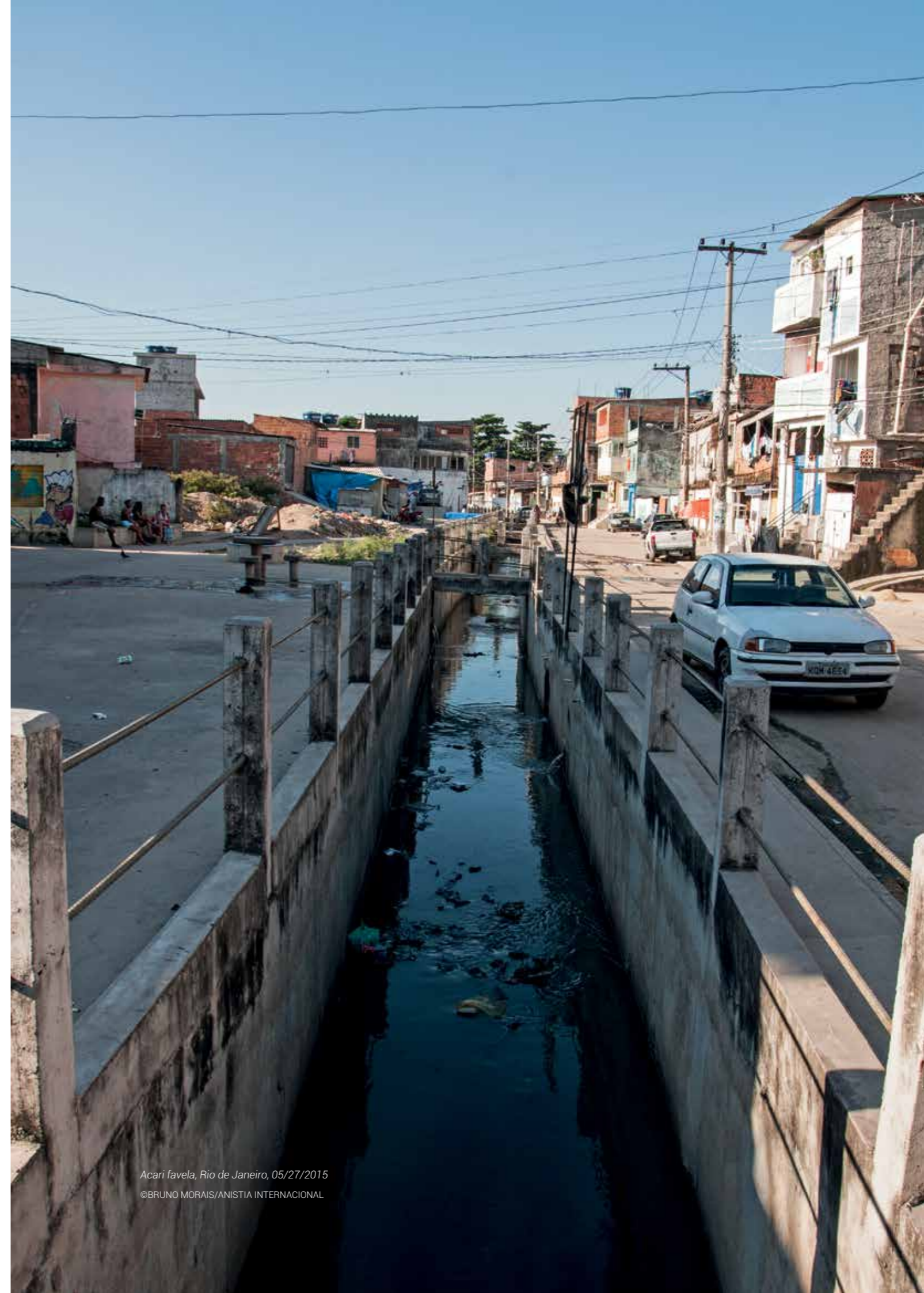
Before the wall around the nursery was built in 2013, Military Police officers would use the nursery as a shield during raids. One time, a shootout started near the nursery. One member of staff tried to protect the children with her own body. She told Amnesty International: “I was shouting: ‘There are children here, there are children here!’, as I sheltered them in the corner. I just heard the sound near me when the bullet struck and the splinters went into my foot. I felt a burning sensation and

thought: ‘OK, I’ve been hit’. But I stayed with the children, all the same. A bullet passed very close to us and hit a toy. Luckily, it lodged in the toy. One child was grazed on the thigh by bullet splinters. Other members of staff came to help me get the children out of the room. When we’d just finished moving the children, the shooting started again. Then the caretaker started shouting, we both started shouting: ‘There are children here, there are children here! A member of staff has been hit.’ We went out into the street shouting. That was when the police stopped shooting and came into the nursery. But they weren’t friendly or apologetic; they didn’t seem to care about the children’s welfare. They came in pointing their weapons, shouting; the children were crying.”

In this episode, the police entered the nursery, intimidated the staff, took their telephone numbers and addresses and picked up all the shells that were there. One member of staff went to report the incident at the 39th Police Station. When she arrived, a Civil Police officer said: “What are you doing here? You can leave. There’s nothing to lodge a complaint about.” She explained to Amnesty International: “In the incident report filed by the Military Police, they said that an incident had occurred in an unknown nursery. They didn’t specify the name, as if the bullet in question had been fired by the criminals. And they didn’t let us make an incident report.”

On another occasion, during an operation in Acari in 2009, as a group of 20 children, aged between 5 and 12, was leaving school, a Civil Police office from the Narcotics Division pointed a rifle at them and their mothers, saying: “All seeds of evil; future traffickers”.

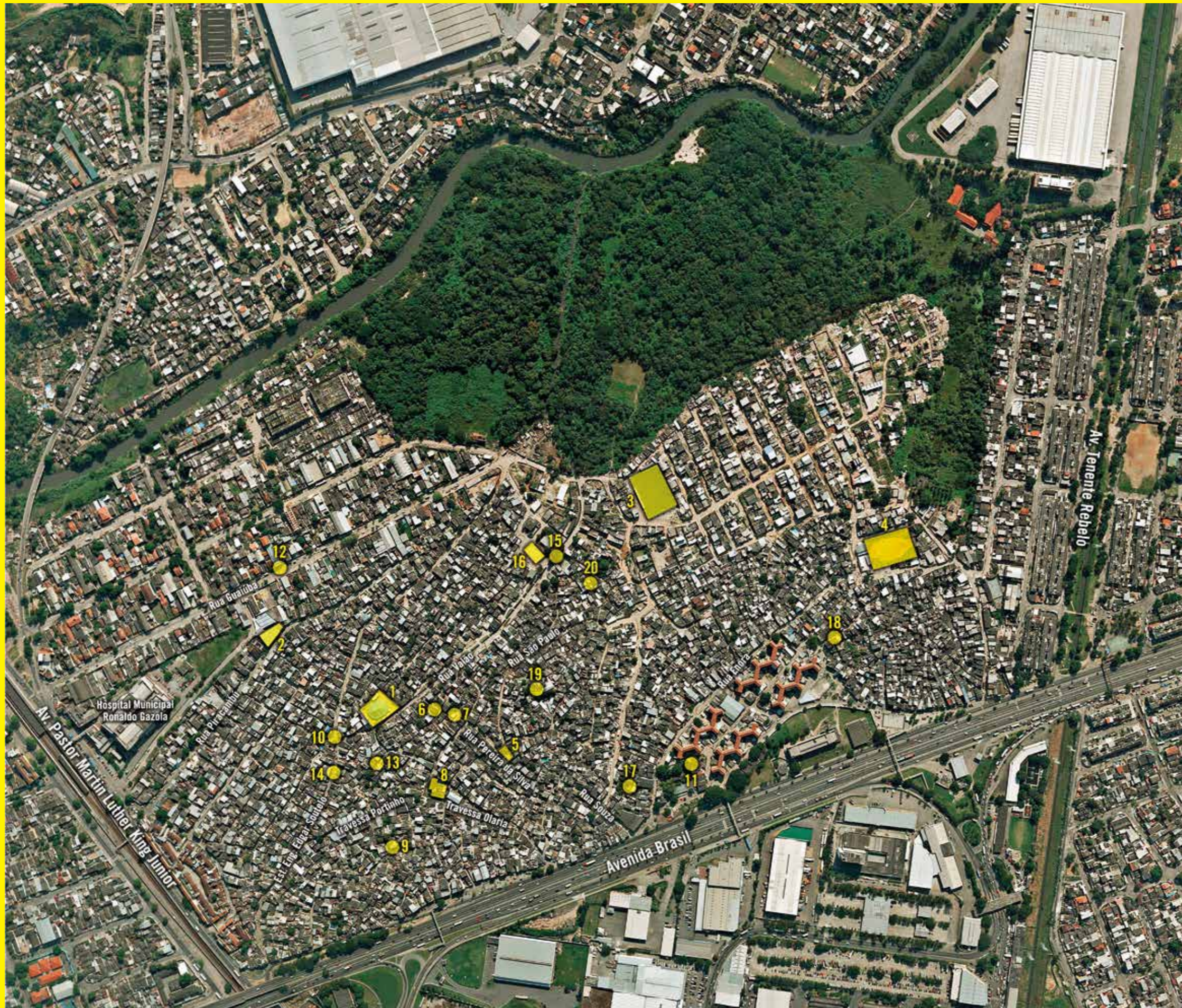
According to staff at the nursery, whenever the police come into the favela, the younger children cry and ask for their parents: “Call my mum!” One member of staff said: “Even if we put them on our laps and start telling them stories, they still want their families. We try to distract them, but they look at us and pay attention to what’s going on out in the street.”



Acari favela, Rio de Janeiro, 05/27/2015

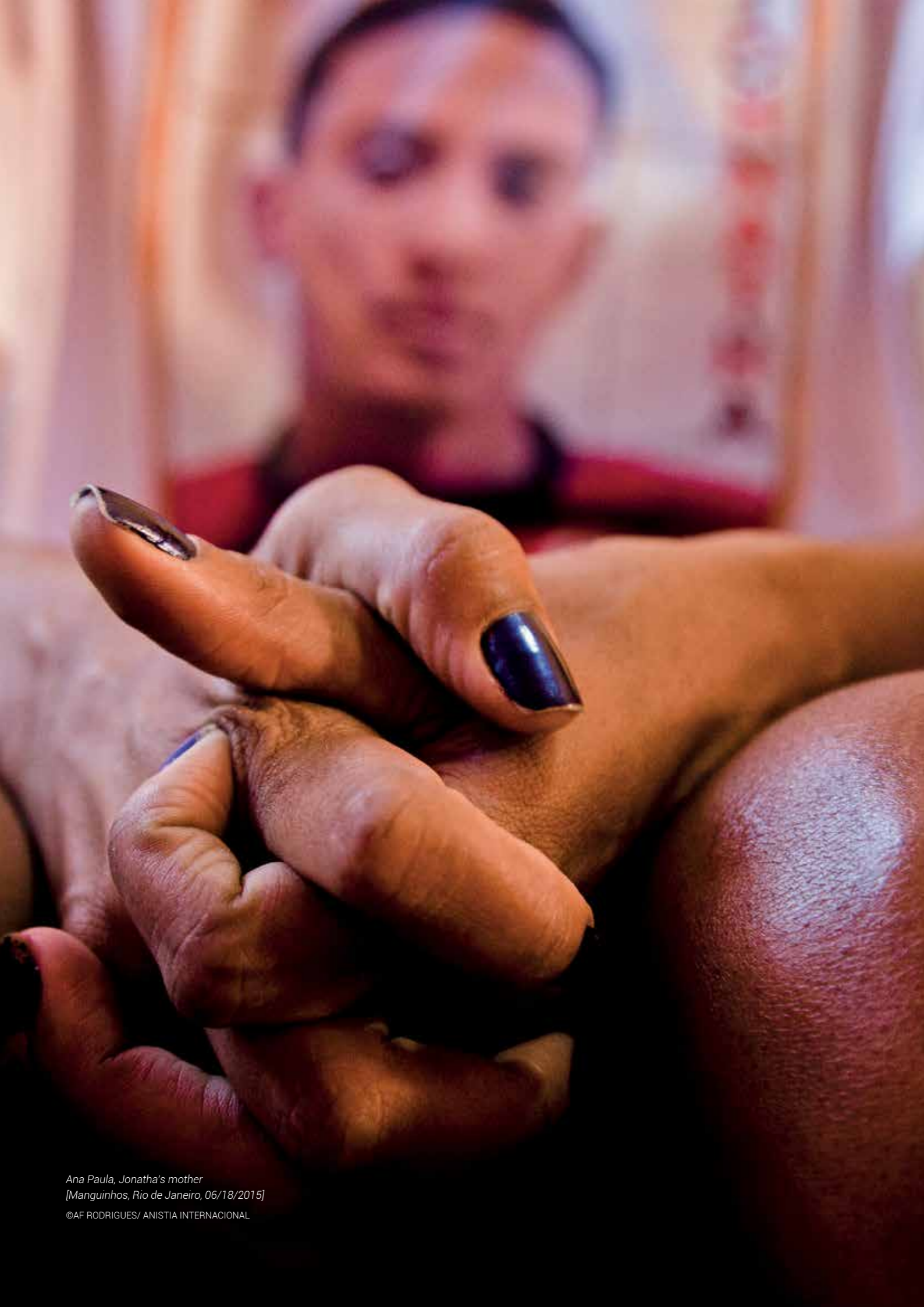
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AERIAL VIEW OF ACARI



- 1 | GIGANTÃO (SPORTS COURT)
- 2 | FAVO DE ACARI (SAMBA SCHOOL)
- 3 | FIM DO MUNDO COURT
- 4 | RELÂMPAGO FIELD
- 5 | CCPR (CULTURAL CENTER)
- 6 | MARCELO'S* DEATH
- 7 | DAVI'S* DEATH
- 8 | DAYCARE
- 9 | VITOR'S* DEATH
- 10 | ROBERTO'S* DEATH
- 11 | PEDRO IVO AND LUCAS'S* DEATH
- 12 | JOÃO CARLOS' DEATH
- 13 | LEONARDO'S* DEATH
- 14 | ANA CLAUDIA'S DEATH
- 15 | JOEL (PLACE WHERE HE WAS SHOT)
- 16 | ROBERTO CARLOS SQUARE
- 18 | MAICON'S DEATH
- 19 | CRUZEIRO (ACARI'S HIGHEST SPOT)
- 20 | RICARDO'S* DEATH

AERIAL PICTURE BY PEREIRA PASSOS INSTITUTE (OUR MAP)



IMPUNITY

“IF YOU DON’T FOLLOW IT UP, DON’T DO ANYTHING, THAT POLICE OFFICER WILL FEEL LIKE HE’S THE GREAT AVENGER, THE SUPERHERO OF RIO DE JANEIRO. HE GENUINELY BELIEVES THAT HE REALLY DOES HAVE TO KILL. HE THINKS HE’S HELPING SOCIETY. THE RATIONALE OF THE POLICE OFFICER IS: “I’M NOT GOING TO WASTE MY TIME ON CROOKS; THE FEWER THERE ARE, THE BETTER”. WHAT THEY DON’T NOTICE IS THAT SOLVING THE CRIME IN QUESTION WILL HELP AVOID OTHER DEATHS.”⁹⁵

The right to life has two components. The substantive component considers that all persons have the right not to be arbitrarily deprived of their lives. The procedural component requires a proper investigation to be conducted and for the persons responsible to be brought to account whenever there are grounds to believe that arbitrary deprivation of life has occurred⁹⁶. The lack of investigation and accountability in relation to deaths caused by agents of the state violates this second component.

The context of violence and the high homicide rate in Brazil are aggravated by the high level of impunity. It is estimated that only 5% to 8% of homicides in the country are effectively investigated and prosecuted⁹⁷. In cases registered as killings resulting from police intervention, the level of impunity is even greater due to serious failings in the investigation process. This impunity feeds back into the cycle of violence and reveals problems in the criminal investigation and in the criminal justice system as a whole, which includes the Civil Police, the Public Prosecution Service and the Judiciary.

After his visit to Brazil in 2007, the UN’s Special Rapporteur on extrajudicial, summary or arbitrary executions, Dr Philip Alston, said that he had received “many claims that Civil Police investigations, particularly of killings by police, are often grossly inadequate”. He explained that “police investigations are often not record-

⁹⁵ Extract from the account of a public security specialist given in an interview with Amnesty International.

⁹⁶ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, A/HRC/26/36, paragraph 46.

⁹⁷ See “Relatório Nacional da Execução da Meta 2: um diagnóstico da investigação de homicídios no país” (National Council of the Public Prosecution Service, 2012, p. 22). Available at: <http://www.cnmp.mp.br/portal/images/stories/Enasp/relatorio_enasp_FINAL.pdf>. Accessed on 25/06/2015.

ed properly, and sometimes the only evidence is a crime scene description and a police statement". The Special Rapporteur also said that problems in relation to the investigation "are exacerbated when the case is one in which members of the Military Police report the killing as a 'resistance' death". Civil Police repeatedly said that "when a resistance case occurs, it is assumed that the Military Police were dealing with criminals, and acting in self-defence". The Rapporteur was also given several "examples of police negligently or intentionally allowing cases to sit in police precincts, without passing them on to prosecutors"⁹⁸.

Unfortunately, eight years after the visit of the Special Rapporteur, the situation has not changed significantly. Amnesty International has documented how executions committed by police and registered as a "killing resulting from police intervention" are rarely investigated and the perpetrators are not brought to justice or sentenced.

The impunity that characterizes many of the homicides committed by police in Rio de Janeiro has a long history. The "Massacre of Acari" case described in this report is one of the most emblematic illustrations of this. Twenty-five years later, the case was shelved and those responsible went unpunished. The officers responsible for the "Massacre of Borel", an episode in which Military Police from the 6th MPB executed four youngsters in the favela of Borel, in the district of Tijuca in Rio de Janeiro's Zona Norte, in April 2003, also remain unpunished, after 12 years⁹⁹.

The case of Maicon, a child aged just two years, who died in 1996 after being

hit by a bullet from a firearm shot by Military Police in Acari, is another example. Maicon was killed as he played near his house, with a group of children, while his father was fixing a bicycle. Maicon's parents were devastated when they saw their son soaked in blood just after hearing the shot. At that moment, his father, Zé Luís, confronted the police officer: "You killed my son"! You've ended my life!" In the years since then, Zé Luís has been fighting for justice and for the Public Prosecution Service to lodge a complaint against the Military Police officers involved¹⁰⁰, but as of June 2015, there had been no significant progress and the case is due to expire in 2016¹⁰¹.



José Luis, Maicon's father, with one of his artworks in honor of his son [Acari, Rio de Janeiro, 05/27/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

The impunity that was associated with homicides resulting from police intervention for decades seems to be on the rise again in more recent years. Amnesty International has had access to the number, date, police station and status of all incident reports that registered killings resulting from police intervention in the city of Rio de Janeiro in 2011¹⁰². Analysis of that information reveals a widespread con-

98 Report to the United Nations Human Rights Council of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Dr Philip Alston, Mission to Brazil, A/HRC/11/2/Add.2, paragraphs 51 to 53.

99 Amnesty International representatives visited Borel in June 2003 and the massacre was described in the report: "Rio de Janeiro 2003: Candelária and Vigário Geral 10 years on", AI Index AMR 19/015/2003.

100 Zé Luís went on a hunger strike in April 2015, to pressure the Public Prosecution Service. See article in O Dia newspaper at: <<http://odia.ig.com.br/noticia/rio-de-janeiro/2015-04-13/pai-acampa-em-frente-ao-mp-em-busca-de-justica-para-o-filho.html>>. Accessed on 25/06/2015.

101 Relatives of Maicon were interviewed by Amnesty International during preparation of this study.

102 The year 2011 was selected for the study as four years was considered a sufficient period of time for the investigations to have progressed and the cases to have been brought to justice. It is worth mentioning that this was explained in part 1?

text of impunity and how little progress has been made in this area since the UN Special Rapporteur's visit to Brazil.

In 2011, the Civil Police opened 220 administrative proceedings – concerning one or more victims – in relation to killings resulting from police intervention / resistance followed by death" in the city¹⁰³. Data from the Institute of Public Security indicates that there were a total of 283 victims of killings resulting from police intervention in the city of Rio de Janeiro that year.

When it examined the status of those 220 proceedings, Amnesty International observed that, as of April 2015, 183 investigations were still underway. The shelving of 12 cases had been requested, five of them due to a lack of evidence or witnesses. In only one instance had the police officers involved been prosecuted by the Public Prosecution Service.

TABLE 4. Progress of administrative proceedings concerning killings resulting from police intervention registered in the city of Rio de Janeiro in 2011^{104 105}

TOTAL ADMINISTRATIVE PROCEEDINGS OPENED BY THE CIVIL POLICE	220
Proceedings with investigations still underway	183
Requests for shelving by the Public Prosecution Service	12
Complaints lodged by the Public Prosecution Service against police officers	1
Cases brought before the courts due to arrest in <i>flagrante delicto</i> , in crimes not linked to killings resulting from police intervention	21
Cases for which it was not possible to obtain information	3

SOURCE: 2011 DATA OBTAINED FROM A CIVIL POLICE SOURCE

The 39th police station, which is responsible for an area that includes the favela of Acari, had the greatest number of homicides registered as killings resulting from police intervention in 2011. According to data from the Civil Police, 32 proceedings were registered. Data from the Institute of Public Security for the same year indicates that there were 39 victims in the cases registered at the 39th police station. All the corresponding investigations are still in progress. In none of the incidents registered at the 39th police station in 2011 did the Public Prosecution Service bring charges or request that the case be shelved.

A researcher specialized in the field of public security told Amnesty International that the 183 cases still in progress deserve attention, as they will probably be shelved in future, without a proper investigation or those responsible being brought to account. This process – in which the police station refers the inquiry to the Public Prosecution Service, which then sends it back to the police station with new requests for information, and so on for years, without the case being concluded – means that the investigation never ends and remains in limbo. According to him: "Those 183 cases are in limbo – there's no way of requesting that they be shelved or transforming them into formal accusations. Nobody assumes responsibility. What you will probably find in this back-and-forth process is that there are no witnesses

103 Data obtained from a Civil Police source.

104 Each administrative proceeding may concern one or more victims.

105 Arrests in flagrante delicto occur when, as well as the "killing resulting from police intervention", there is also another crime whose suspect remains alive and is taken to the police station, where the arrest warrant is drawn up by the competent police authority.

and no crime scene. Homicides are solved in the first 48 hours. After that, it gets increasingly harder. And the police know that. The toing and froing won't come to anything. The case will eventually be shelved. It's just a matter of time."

In an interview with Amnesty International, a Civil Police chief in Rio de Janeiro expressed surprise at the high number of inquiries into killings resulting from police intervention that remain open since 2011. He reasoned that in cases of "resistance followed by death", the killer is known and the police stations have targets for completing the investigations. If, after four years, those cases have not been concluded, it is probably because the death was not caused in self-defence. In the words of the police chief, when that happens "it's because there's something fishy going on..."

The failure to investigate cases of "resistance followed by death" had already been highlighted in a study carried out by Michel Misse¹⁰⁶. He analysed the cases in the city of Rio de Janeiro in 2005 and showed that, in the course of that year, 707 people were victims of "resistance followed by death", in a total of 510 incident reports. Of that total (510), only 355 cases gave rise to police inquiries and, three years later, only 19 had actually been brought before the courts. Of those 19, 16 were forwarded to the Public Prosecution Service with a request for them to be shelved. In only three cases did the Public Prosecutor file formal charges with the judiciary.

With the aim of resolving more homicides in general, in 2010 the Homicide Division was set up to investigate cases in the city of Rio de Janeiro. However, incidents reported as killings resulting from police intervention are not referred to that unit, but are instead investigated by the local police station. After the police station in question has completed its investigations, it sends the case to the Public Prosecution Service. The Public Prosecution Service decides whether there are grounds to institute criminal proceedings or whether the cases should be shelved as there is evidence that the police officer acted in self-defence or that the killing occurred under other lawful circumstances.

The **USE OF FORCE BY LAW ENFORCEMENT OFFICIALS**, particularly when someone has been killed, **REQUIRES AN EFFECTIVE, INDEPENDENT AND IMPARTIAL INVESTIGATION TO BE IMMEDIATELY CARRIED** out, to evaluate individual responsibility and the institutional failures that caused the death. The different treatment given to killings resulting from police intervention – which are not investigated by the Homicide Division – compared with other cases of homicide undermines their effective investigation.

The Special Rapporteur on extrajudicial, summary or arbitrary executions, stated that: "Although the Civil Police and Military Police are independent institutions, members of the respective forces in a given area will routinely cooperate on ordinary cases. The relationships that develop can impede effective investigations implicating the Military Police. This problem is ameliorated when a specialized Civil Police unit with broader geographical coverage, such as the Department of Homicides and Protection of the Person (Departamento de Homicídios e Proteção à Pessoa (DHPP)) in São Paulo, takes over a case involving a killing by police¹⁰⁷."

¹⁰⁶ See MISSE, Michel et al. (op. cit., p. 45).

¹⁰⁷ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Dr Philip Alston, Addendum, Mission to Brazil, A/HRC/11/2/Add.2, footnote 60.

FAILINGS OF THE PUBLIC PROSECUTION SERVICE IN ESTABLISHING CRIMINAL RESPONSIBILITY FOR KILLINGS RESULTING FROM POLICE INTERVENTION

In Brazil, the Public Prosecution Service is independent of the executive and the judiciary, and is responsible for processing public criminal actions. The Public Prosecution Service has autonomy to determine whether to open a police inquiry, request investigatory actions and monitor investigations. In addition, it has the role of "exercising external control of police activity"¹⁰⁸.

Various specialists and authorities contacted by Amnesty International criticized the failings of the Public Prosecution Service in both monitoring investigations carried out by the Civil Police in cases of killings resulting from police intervention and effectively controlling police activity.

A public defender in Rio de Janeiro State¹⁰⁹ said, in an interview with Amnesty International, that he is aware of the failings of the Public Prosecution Service in relation to killings resulting from police intervention: "In my opinion, the Public Prosecution Service has failed to act objectively in relation to cases of 'resistance followed by death', to ascertain whether they were actually cases of self-defence and, where there is evidence of who the perpetrator was and the materiality of the incident, file charges. There are agents of the state who have registered 19, 20 or 40 cases of 'resistance followed by death', and that sounds odd: so much resistance, so many killings linked to just one person."

A Civil Police officer acknowledged to Amnesty International the problem of the "toing and froing" between the police station and the Public Prosecution Service in investigations that drag on for several years and only result in "an immense mass of pointless paper". He criticized the Public Prosecution Service for not giving priority to establishing the facts and concluded that: "If you don't intervene in that investigation in the first month, in the first fortnight, in the first week... it's over, that's it".

Another public defender explained in an interview: "Clearly, if there is no external pressure, the investigation doesn't go anywhere because there's a very strong corporatist tendency in both the police and the Public Prosecution Service". In his opinion: "It should fall to the Public Prosecution Service – not only as the body that oversees police activity, but also as the body responsible for criminal actions, that is, the institution that files charges – to more cautiously assess cases of 'resistance followed by death' and not allow them to become indefinitely stalled or end up on the shelves of the police stations or the Public Prosecution Service itself".

Also in an interview with Amnesty International, a researcher specializing in this field questioned the lack of monitoring and accountability of the Military Police, particularly in relation to officers who frequently use their firearms and report killings resulting from police intervention. In this view: "There are police officers with 20 deaths on their hands who are still on active duty, without anything having been done to investigate why they have clocked up so many deaths. What were the common circumstances that allowed the same officer to kill so many people? That is not only the responsibility of the officer in question, but also of the institution as a whole and the Public Prosecution Service. It needs to be looked into, to see whether that guy is going to kill again."

¹⁰⁸ See Article 129(VII) and (VIII) of the Brazilian Constitution of 1988.

¹⁰⁹ The Public Defender's Office provides **free legal assistance** to people who cannot afford to pay for those services.

Sometimes, even when investigations lead to the perpetrators of the homicide being identified and the Public Prosecution Service filing charges against the police officers in question, it may end up being the judiciary itself that prevents those responsible from being brought to trial¹¹⁰. In one of the cases that Amnesty International has documented, the judge used the arguments of “self-defence” and “criminal resistance” to reject the charges filed by the Public Prosecution Service and prevent the homicide committed by a Military Police officer from going to court.

EDILSON SILVA DOS SANTOS, AGED 27, KILLED BY A MILITARY POLICE OFFICER FROM PACIFICATION POLICE UNIT (UPP) ON 22/04/2014¹¹¹

EDILSON SILVA dos Santos, aged 27, was shot in the head during a protest in Pavão-Pavãozinho favela, in Copacabana, in the Zona Sul area of Rio de Janeiro, on the evening of 22 April 2014. The spontaneous protest was a peaceful reaction by the community to the death of the dancer known as DG112, who had been killed by Military Police hours earlier.

Edilson had a mental disability and lived in the favela with his adoptive family (mother and brother). Even though he and the other favela residents were unarmed as they protested, the Military Police shot into the air and at them. Edilson was taken to hospital by Military Police officers, but, according to the medical report, he was dead on arrival.

In the course of the investigation, the officer responsible for firing the shot that killed Edilson was identified from the security cameras installed on a nearby building. The video also showed that there had been no need for the use of firearms at that moment and that the officer had shot randomly into the crowd. Witnesses confirmed that Edilson was walking down the street with his hands in the air when he was hit.

The police chief who led the investigation requested that the police officer be remanded in custody until being tried for homicide. The other officers who were with him were accused of giving false testimony. The Public Prosecution Service filed charges, taking the case to court, but the judge (of the 1st Criminal Court) dismissed it, preventing a judgement from being passed¹¹². In his decision, the judge stated that “the police officers were acting in self-defence because they had encountered real criminal resistance from unidentified persons, who were possibly delinquents and favela residents involved in delinquent activities”.

CRIME SCENE MANIPULATION AND FLAWS IN INVESTIGATIONS

In its study, Amnesty International discovered that, in addition to the unpreparedness and lack of supervision of the Military Police with regard to the use of firearms, there are also attempts to criminalize victims and tamper with the crime scene to make the actions of the police appear lawful. Two ways of hampering investigations and attempting to ensure impunity are altering the crime scene and falsely creating the impression that the victim resisted the police.

¹¹⁰ See ORLANDO, Zaccone (op. cit.).

¹¹¹ Amnesty International representatives went to the Institute of Forensic Medicine (IML) that same night to obtain more information about the case and were in the favela of Pavão-Pavãozinho days after the incident to interview residents, possible witnesses and members of Edilson's family.

¹¹² The case of DG is also described in this report.

¹¹³ Case No. 0081733-58.2015.8.19.0001.

Crime scene manipulation may take the form of removing the body, failing to immediately preserve the area for the work of the forensic team or even changing the position and state of the body. Falsifying “resistance”, as occurred in some cases documented by Amnesty International, may include placing weapons next to the victim's body.

ALAN DE SOUZA LIMA, AGED 16, KILLED BY MILITARY POLICE FROM THE 9TH MPB ON 20/02/2015



Alan's parents in their home [Rio de Janeiro, 07/20/2015]. ©AF RODRIGUES/ ANISTIA INTERNACIONAL

ALAN DE SOUZA LIMA was 16 years old when he was killed by Military Police officers in the favela of Palmeirinha, in the district of Honório Gurgel in the city of Rio de Janeiro's Zona Norte. At around 11 pm on 20 February 2015, Alan was talking to two friends in the neighbourhood where he lived. They had come back from a shopping centre, had ordered a pizza and were waiting for it to be delivered. Meanwhile, they were playing around and recording a video on a mobile phone. The neighbourhood was only partially lit.

The video records the youngsters joking around. After a minute of recording, shots are heard and the phone falls to the ground. The agony of the wounded youngsters can be heard, as can the voices of two Military Police officers who approached them. One of them asks the boys why they were running. “We were playing, sir”, answers one of the lads.

Alan's mother was asleep when a neighbour called her: “Run, Irene! The police are hurting Alan.” His father went to the scene of the incident.

Witnesses told Amnesty International that the Military Police officers shot from inside a vehicle, without any prior warning or interaction, hitting Alan and his friend Chauan, aged 19. Several local residents gathered around the place where the boys had been shot. The police had two vehicles and one “caveirão”. They put Chauan (who survived) and Alan's body in the vehicle and left. The crime scene was not preserved. The autopsy report¹¹⁴ states that Alan was hit by four bullets.

The police officer reported the case at the police station as a “killing resulting from police intervention”. The incident report states that the Military Police officers “were caught unawares by several armed men. When they saw the police vehicle, they fired shots in the direction of the police

¹¹⁴ Report IML-RJ-SNC-008975/2015, completed on 24/02/2015.

officers and the police responded to the unjust aggression, shooting back at them. When it became possible, the reporting officer went over to the place where the armed individuals had gathered and saw that two men had been shot and there were two weapons on the ground.”

According to the police’s falsified version of events, Chauan, who was wounded in the chest by the bullet that hit him, was arrested in flagrante delicto for illegal possession of a weapon and resisting the police. In a statement released on 21 February, the Civil Police stated that the youngsters were wounded during a confrontation with Military Police and that a revolver and a pistol were confiscated in the action¹¹⁵.

The video recorded on the mobile phone became public days later and revealed that the lads were not carrying any weapons and were not shooting. When the farce was exposed, Chauan was released from prison. It was not until Military Police authorities learned of the video that they ordered the dismissal of some of the officers involved in the incident. The case was then referred to the Homicide Division for investigation. The investigation was completed by the Civil Police and the Public Prosecution Service charged one Military Police officer with homicide and another with fraudulent manipulation. On 10 July 2015, the judge of the 1st Criminal Court of Rio de Janeiro Capital ordered that the two police officers be remanded in custody until their trial.¹¹⁶

Alan’s brother is deeply upset: “I just want the guy who did it to pay, because my brother was a good, hard-working person, he was studying, he was happy. That man took my brother’s life and ended the life of my family too, because the family isn’t the same any more since what happened.”

In general, the statements of Military Police officers involved in killings resulting from police intervention describe a situation of confrontation or exchange of fire with alleged criminals, and that version of events becomes the starting point of the investigation. A Civil Police chief interviewed by Amnesty International explained: “The word of the police officer **IS THE VOICE OF THE STATE**. It is truthful. The police officer is performing a public service. **WITHIN THE INVESTIGATION, THE OFFICER’S STATEMENT IS CONSIDERED TO BE TRUE.**”

In cases where police records indicate that the victim was linked to illegal drug selling, the investigation merely validates the police officers’ claim that the death occurred in self-defence. The investigation does not consider whether the police’s use of force was necessary and proportionate. On the contrary, the whole process seeks to give legitimacy to that homicide, supposedly carried out with just cause and necessity.

One Civil Police officer explained to Amnesty International that more precise investigatory work is often neglected. Consequently, “an exercise of building an inquiry into the case of ‘resistance followed by death’ begins, based on the supposed resistance of the individual who was told that he was under arrest. So, just as an arrest is viewed as a positive outcome, so is ‘resistance followed by death’. The district police station does not really make an effort to question, challenge or relativize that claim; its tendency is to corroborate it.”

115 See article on the G1 website at: <<http://g1.globo.com/rio-de-janeiro/noticia/2015/02/celular-filma-ultimos-momentos-de-jovem-morto-por-pm-no-rio-veja.html>>. Accessed on: 25/06/2015.

116 Case No. 0181822-89.2015.8.19.0001.

In order to allow that version to prevail, the criminal investigation does not give due consideration to the dynamic of the homicides themselves (eye witnesses, forensic reports, statements of local residents and family members), but instead focuses on background moral aspects of the victims’ lives (if they had previously been in trouble with the police, if they had been involved in any criminal activity, if they had a job or formal qualifications, and so on). The age and racial profile of the victims and the stereotypes associated with black youth from the favelas and poor peripheral neighbourhoods help to justify those deaths.

In the course of the investigation, police statements tend to prevail over statements given by local residents, family members and victims. According to a public defender in Rio de Janeiro State: “The word of a police officer is worth more than that of someone else, until proven otherwise. So, if you don’t have firm proof to counter the word of the police officer, his word will be believed. As a result, all acts by police are deemed legitimate until proven otherwise. It shouldn’t be like that.”

This situation can become even more problematic considering the shortcomings of the Institutes of Forensic Medicine, which lack sufficient resources and do not have the necessary independence in relation to the police, as highlighted by the UN’s Special Rapporteur on extrajudicial, summary or arbitrary executions¹¹⁷.

Added to that is the manipulation of crime scenes by Military Police. One researcher told Amnesty International that, in those cases, “the first thing that the police do is not acknowledge the place of death and report that the individual was wounded and taken to hospital. In fact, the person is already being taken as a corpse, but that enables them to dismantle the crime scene.”

A Civil Police officer described to Amnesty International an old police practice to incriminate the victim: the use of a **“RESISTANCE FOLLOWED BY DEATH KIT”**. It consists of an unregistered firearm, which is **PLANTED AT THE CRIME SCENE** in cases where the actions of the police **NEED TO BE JUSTIFIED**. According to him, another practice shared informally within the police forces consists of hiding a corpse, then placing stones and rubble in its abdomen so that the body does not float and, therefore, disappears when thrown into the sea or a river.

The main consequence of tampering with the crime scene is that it prevents key parts of the investigation from being carried out, such as the forensic examination of the site of the crime, which is a fundamental tool in homicide cases.

One public defender underlined this problem: “The claim of ‘resistance followed by death’ greatly hinders the investigation. The police officers present take apart the crime scene, pick up any projectiles and take the corpse to a hospital. The guy’s killed someone and tries to make sure he’ll get away with it. And, in the attempt to cover up any errors, he commits another crime, that of fraudulent manipulation of the crime scene. A typical scenario is: the officer goes there, shoots at and hits the victim; then he plants two weapons there, goes to the police station and says that the victim was armed.”

AS THEY ARE NOT PROPERLY INVESTIGATED and to ensure impunity in cases of excessive use of force, recklessness and execution, the classification of killings resulting from police intervention becomes a **KIND OF SMOKE SCREEN** for extrajudicial execution in general.

117 Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Dr Philip Alston, Addendum, Mission to Brazil, A/HRC/11/2/Add.2, paragraph 54.

Some laws in force in Brazil seek to prevent crime scene tampering. The Code of Criminal Procedure stipulates that the police chief must visit the crime scene, which must be preserved¹¹⁸. Ministerial Order 553/2011¹¹⁹, published by the head of the Civil Police in Rio de Janeiro, establishes the same requirement. Resolution No. 8/2012 of the National Council for the Defence of Human Rights (CDDPH) also recommends that the crime scene be preserved in cases of “killing resulting from police intervention”. However, it is precisely in those cases that those legal requirements are rarely met.

Often, **LOCAL RESIDENTS OR RELATIVES OF VICTIMS** have to take action to **ENSURE PRESERVATION** of the body and **CRIME SCENE**. The action of residents of the favela of Dendê, in the Ilha do Governador district of Rio de Janeiro’s Zona Norte, was essential for the deaths of a 24-year-old man and a ten-year-old boy to be properly investigated. The murders occurred during a Civil Police operation on 19 May 2015. An officer from the Special Resources Unit (CORE) admitted firing the shots that killed both of the victims, but also handed in two weapons that he claimed were taken from the place where they were killed. Thanks to the actions of the local community, this case is being investigated by the Homicide Division rather than the local police station¹²⁰.

In April 2013, residents of Jacarezinho favela in the Zona Norte of the city also had to take action to prevent the body of a young lad being removed and the crime scene dismantled. The youngster was hit by a shot from a firearm while he was eating in the street. The favela residents came together in a protest, which only ended when Civil Police arrived to carry out the forensic examination¹²¹.

The mobilization of local residents and relatives was also fundamental to ensure the proper investigation of the case of Eduardo de Jesus, who was just ten years old when he was killed by Military Police in April 2015, as mentioned previously in this report.

DOUGLAS RAFAEL PEREIRA DA SILVA (DG), AGED 26, KILLED BY MILITARY POLICE FROM THE UPP OF PAVÃO-PAVÃOZINHO ON 22/04/2014



DG and his mother during his daughter's birthday party. [Rio de Janeiro, 2013]. ©PRIVATE

DOUGLAS RAFAEL PEREIRA DA SILVA, a dancer known as DG, aged 26, was found dead at a nursery school in the favela of Pavão-Pavãozinho, in the Copacabana district of Rio de Janeiro’s Zona Sul, after visiting his four-year-old daughter, who lived locally. The investigation revealed that he died at around 1 am on 22 April 2014, after being hit by a shot from a firearm during a police operation.

His lung had been perforated. According to the autopsy report¹²², the projectile entered his back and exited through his shoulder. The crime scene was tampered with by Military Police who stayed in the nursery for several hours. When the community discovered that DG had been killed, a protest started. The Military Police’s suppression of the protest resulted in another fatal victim (see the case of Edilson Silva dos Santos, which is also described in this report).

DG worked on a television programme and was seen as a role model by many youngsters in the favela. His death prompted unrest in the favela, especially among young people, and several civil society organizations, including Amnesty International, mobilized to demand justice¹²³.

Maria de Fátima, DG’s mother, explained: “The favela residents are more afraid of the police than they are of criminals now. My son was yet another victim. These police are not trained to save or help people, but to kill.” She told Amnesty International that she has received threats due to her fight for justice.

In March 2015, the investigation was completed by the Civil Police. The Public Prosecution Service charged one Military Police officer with murder and another six with fraudulent manipulation. On 10 April 2015, the judge of the 1st Criminal Court of Rio de Janeiro Capital ordered that the officer charged with murder be remanded in custody until his trial, but a writ of habeas corpus was later granted¹²⁴.

118 See Article 6 of the Brazilian Code of Criminal Procedure, Decree-Law No. 3,689 of 3 October 1941.

119 Ministerial Order No. 553 of 7 July 2011 was signed by then-Civil Police Chief of Rio de Janeiro State, Marta Rocha.

120 See article in O Global newspaper at: <<http://oglobo.globo.com/rio/operacao-da-policia-civil-no-morro-do-dende-termina-com-dois-jovens-mortos-16201370>>. Accessed on: 25/06/2015.

121 See A Nova Democracia news report at: <<https://www.youtube.com/watch?v=PAAvYFG7Hjc>>. Accessed on: 25/06/2015.

122 Autopsy report IML-RJ-SNC-020451/2014.

123 See Urgent Action “Call for inquiries into two killings in Rio” (AMR 19/003/2014).

124 Case No. 0132654-21.2015.8.19.0001.

WITNESS PROTECTION

An important factor to ensure a proper investigation and accountability in cases of killings resulting from police intervention is the guarantee to protect witnesses and victims of police violence.

This point was highlighted by the UN's Special Rapporteur on extrajudicial, summary or arbitrary executions, who stated that: "The high number of homicides in Brazil, together with significant levels of organized crime and police corruption and violence, means that an effective and comprehensive witness protection program is essential in order to protect particularly vulnerable witnesses and to ensure that impunity does not result from widespread witness intimidation"¹²⁵.

Brazil has taken some important steps to protect witnesses who may be at risk, although much more still needs to be done. In 1999, the Assistance Programme for Victims and Witnesses At Risk (PROVITA) was set up, with a structure defined by federal legislation¹²⁶. The programme receives both federal and state resources and its management is the responsibility of the states. In each state, a commission – made up of judges, prosecutors and other professionals – establishes guidelines and takes decisions regarding the exclusion or inclusion of people in the programme.

The fear felt by witnesses of homicides committed by police officers was observed directly by the Amnesty International representatives during the interviews conducted with favela residents, relatives of victims and eye witnesses of the cases described in this report. The majority of them did not want to be identified out of fear of retaliations by the police, specifically asking to remain anonymous and for the report not to contain information that would make it possible to identify them.

The memory of the killing of Edméia da Silva Euzébio¹²⁷, in 1993, is still very strong for the residents of Acari. That **CRIME BECAME A SYMBOL** of how witnesses and human rights defenders who fight for justice for cases of police violence can be silenced.

In an interview with Amnesty International, the mother of one victim killed by Military Police said that, since Edméia's murder, she is afraid of suffering the same fate. She added: "After she was killed, people got scared. There are lots of mothers who don't speak out. I won't go to the police station. If the Military Police call me, I won't go. I know that they're cowards." Another mother interviewed asked not to be identified, as she still cannot get the case of Edméia out of her head, after more than 22 years. "It was a strong message for us to shut up. No one has the courage to speak out. I'm afraid of reprisals. I live here. We live here", she explained.

Civil Police chiefs from Rio de Janeiro told Amnesty International how the lack of witnesses willing to give statements at the police stations or in the course of court proceedings hinders the investigation and prosecution of homicide cases, especially those committed by police officers (whether on or off duty).

The laws in force in Brazil do not make it possible to guarantee the anonymity of witnesses called to testify against the accused or to use so-called "faceless witnesses". The Civil Police chiefs with whom Amnesty International spoke pointed out that the current structure of PROVITA is insufficient to cope with the volume of cases that would require its help, and the programme lacks resources. They also highlighted some flaws that directly affect homicide investigations (including investigations of killings resulting from police intervention), such as the decision-making process for the inclusion of people in the witness protection programme and the lack of autonomy of the Civil Police in that respect.



Military Police helicopter in Vidigal. [Rio de Janeiro, 11/13/2011]. ©LUIZ BALTAR/ANISTIA INTERNACIONAL

¹²⁵ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Dr Philip Alston, Addendum, Mission to Brazil, A/HRC/11/2/Add.2, paragraph 61.

¹²⁶ See Federal Law No. 9.807 of 13 July 1999, available at: <http://www.planalto.gov.br/CCIVIL_03/leis/L9807.htm>. Accessed on 25/06/2015.

¹²⁷ For many years, Amnesty International campaigned to demand justice and safety for the "Mothers of Acari". On 31/01/1992, an Urgent Action was launched (Index AMR 19/01/92) to request the protection of Edméia and other mothers. At that time, one of the mothers told the organization that she did not believe that the people who had abducted her son would be brought to justice. In her words, "for the poor, justice only comes in the form of punishment".



THREATENING AND INITIMIDATING HUMAN RIGHTS DEFENDERS

The right to defend human rights is recognized and protected by international legislation. Both the United Nations¹²⁸ and the Organization of American States¹²⁹ establish obligations and commitments for Member States in relation to the protection of human rights defenders.

In 2004, Brazil created, by means of Resolution No. 14/2004¹³⁰, the National Programme for the Protection of Human Rights Defenders, for which a specific legal framework has yet to be approved. Although it was an important step forwards in this field, the programme faces various challenges, including a lack of adherence by the states and a lack of financial resources. Since 2009, a Bill has been under discussion¹³¹ which would establish a legal basis for the protection mechanism, articulation between the federal government and the states, and other matters concerning the jurisdiction, responsibility, management, structure and budget of the programme.

According to human rights defenders in Brazil, of the 27 federative units, only eight have adopted the programme and, only five of them are fully implementing the protection measures¹³². Rio de Janeiro is one of the states that has adopted the programme. However, its implementation has been patchy, resulting in real risks for human rights defenders in the state.

128 Article 1 of the United Nations Declaration on Human Rights Defenders states that: "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels".

129 In 1999, the General Assembly of the Organization of American States (OAS) adopted a Resolution entitled "Human Rights Defenders in the Americas: support for the individuals, groups and organizations of civil society working to promote and protect human rights in the Americas".

130 Resolution No. 14/2004 of the Council for the Defence of Human Rights, which is linked to the Special Secretariat of Human Rights of the Presidency, established the Coordination Office of the National Programme for the Protection of Human Rights Defenders. In addition, on 12 February 2007, Presidential Decree No. 6,044/2007 approved the National Policy for the Protection of Human Rights Defenders, set a deadline for the preparation of a national plan and established other provisions in this area.

131 In July 2009, Bill No. 4,575/2009 was presented, which creates the National Programme for the Protection of Human Rights Defenders. Although it has been approved by all the necessary committees in the Chamber of Deputies, the Bill has not yet been voted on.

132 Amnesty International (2014): Defending human rights in the Americas: necessary, legitimate and dangerous. Index AMR 01/003/2014.



Deley, human rights defender and community leader, in the court where he teaches soccer in Acari [Rio de Janeiro, 05/27/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL

The favela of Acari has a long history of fighting and mobilizing for rights. The “Mothers of Acari” group, for example, was one of the main movements representing families of victims of violence in the state, and helped other families and witnesses to overcome their fear and report the rights violations committed by law enforcement officials in Brazil.

However, human rights defenders in Acari continue to be subjected to constant threats, attacks and intimidations. There are various accounts of assaults (such as face slapping) and death threats by the Military Police, as well as unlawful break-ins of homes. In 2010, police officers intimidated one defender saying: “We know that you’re a costly dead man”. None of those threats were investigated by the police.

In 2007, a police officer entered the favela of Acari and asked a teenager where the house of a particular human rights defender was. When the officer found the house, he shot twice at it and one of the bullets passed through the bedroom wardrobe. The human rights defender stayed away from the favela for two weeks, out of fear.

On another occasion, in 2014, Military Police broke into a home during an operation and intimidated the residents, who then requested the help of a human rights defender working in the favela. He went to the house and tried to reason with a police officer, saying that the police cannot break into homes without justification. The police officer got very angry and started to intimidate him and swear at him. Finally, as the police were leaving, a resident heard one of the officers say to another that if he saw the human rights defender in the street again, he would kill him.

All of those attacks, **THREATS AND ASSAULTS AGAINST HUMAN RIGHTS DEFENDERS OCCURRED WITHIN A BROAD CONTEXT OF IMPUNITY.** The criminal justice system has failed to investigate and bring to justice the people responsible for both thinking up and carrying out those practices.

Full protection of human rights defenders is necessary in order to achieve safe conditions for carrying out this activity which plays a fundamental role in strengthening the democratic state of law. Although the National Programme for the Protection of Human Rights Defenders is an important instrument for the effective safety of human rights defenders in situations of risk, it is essential for the state to advance public policies that tackle the causes of the human rights violations denounced by them and combat the impunity of the threats and attacks inflicted on them.



Human rights defenders, Deley and José Luis show the banner used during the protest for Maicon's case [Acari, Rio de Janeiro, 05/27/2015]. ©BRUNO MORAIS/ANISTIA INTERNACIONAL



Photo of a protest in Complexo do Alemão regarding the deaths of Eduardo and other residents. [Rio de Janeiro, 04/04/2015]

©LUÍZ BALTAR/ANISTIA INTERNACIONAL

CONCLUSIONS AND RECOMMENDATIONS

In the city of Rio de Janeiro, the Military Police have been using unnecessary, excessive and arbitrary force, failing to observe international rules and protocols on the use of force and firearms. This gives rise to various human rights violations and a high number of fatal victims, the majority of whom are black young men.

The registration of “killing resulting from police intervention” is frequently used to cover up cases of extrajudicial executions. The systematic non-investigation and subsequent impunity of cases registered as such means that Military Police use this crime registration category as a way of covering up the practice of extrajudicial executions. In the vast majority of killings resulting from police intervention reported in 2014 in the favela of Acari – and documented by Amnesty International -, there are strong indications of extrajudicial executions.

Recent public policies and measures have not been effective in putting an end to extrajudicial executions in Rio de Janeiro. The transparency and ease of accessing statistical data and crime indicators in the state have made it possible to monitor and engage in a more informed public debate on public security policy in Rio de Janeiro State. In the last five years, major efforts have been made to reduce deaths in police operations and to try and ensure their investigation. However, despite a downward trend that lasted a few years, cases of killings resulting from police intervention rose significantly again between 2013 and 2014 and remain high.

The rationale of the “war on drugs” permits unnecessary and excessive use of force and, through registrations of “killing resulting from police intervention / resistance followed by death”, justifies various human rights violations, such as extrajudicial executions, threats against favela residents and human rights defenders, unlawful break-ins, thefts and physical assaults. This “war on drugs” results in hundreds of victims every year, including Military and Civil Police in the line of duty. The intention of the police operations is to suppress illegal drug trafficking (mainly in favelas), however the lack of regulation and inappropriate use of heavy weapons (such as rifles) and armoured vehicles in densely populated urban areas increase the risk to residents of poor peripheral neighbourhoods and favelas.

These practices seem to be tacitly supported by the various institutions of the criminal justice system – especially the Public Prosecution Service -, which have failed to effectively investigate cases of killings resulting from police intervention.

The criminal investigation is often flawed and slow, leading to a lack of accountability of the police officers involved in the cases. When a police operation results in deaths, it is only possible to conclude whether or not the use of lethal force was legitimate by means of an immediate, prompt, impartial and independent investigation.

In the course of this study, Amnesty International identified various factors that contribute to deaths caused by police going unpunished. Those factors include the different treatment given to killings resulting from police intervention compared with the treatment given to homicides in general, and the frequent alteration of crime scenes by Military Police officers, including by removing bodies and trying to falsify the presence of elements (such as weapons) that explain the 'resistance'. Similarly, acceptance of the sequence of events given by police officers and the lack of will on the part of the Civil Police to investigate the cases also contribute to perpetuating the cycle of impunity.

The Public Prosecution Service is being negligent in relation to the high number of deaths caused by police in Rio de Janeiro State, is not fulfilling its role of exercising external control of police activity and has not taken action to guarantee effective investigation of killings resulting from police intervention.

The lack of proper investigations and punishment of those responsible for killings resulting from police intervention sends out a message that those deaths are permitted and tolerated by the authorities. The high level of impunity feeds the spiral of violence.

Furthermore, the absence of an effective arrangements to protect witnesses, victims, relatives and human rights defenders who denounce police violence impairs the investigations and results in more violence. On several occasions, people who could have helped clarify cases before the courts or who should have received compensation for damage suffered have been intimidated and threatened by Military Police in Rio de Janeiro. Witnesses can be key to elucidating killings resulting from police intervention, but are rarely willing to give formal statements out of fear of retaliation, as there are no adequate arrangements to guarantee their safety.

RECOMMENDATIONS

TO THE GOVERNMENT OF RIO DE JANEIRO STATE:

- Ensure that a full, independent, prompt and impartial investigation of all killings resulting from police intervention is carried out, in order to enable those involved to be brought to justice and held criminally accountable, where appropriate.
- Determine that all killings resulting from police intervention must be investigated by the Homicide Division, which must perform a full, independent, prompt and impartial investigation.
- Guarantee the provision of human, financial and structural resources to the Homicide Division to enable it to effectively perform the task of promptly, effectively, independently and impartially investigating all killings resulting from police intervention in the state.

- Publicly condemn human rights violations in the context of police operations and send public messages that unnecessary and excessive use of force by the police will not be tolerated. This practice must be adopted at the highest levels of the government, including by the Governor, the Secretary for Public Security, and members of the general command of the Military Police and the leadership of the Civil Police.
- Strengthen the Protection Programme for Victims and Witnesses at Risk (PROVITA) and the Protection Programme for Human Rights Defenders in the state, guaranteeing that they have the necessary material, institutional and financial structures to effectively achieve their objectives.
- Offer psychological support to all victims and families of victims of police violence and guarantee the right to fair reparation, which includes adequate compensation and commitments of non-repetition.
- Ensure that the Military Police adopts – and makes public – operational protocols for the use of force and firearms that comply with the international guidelines and standards, and give periodic training to police officers in the adoption of those protocols.
- Suspend Military Police officers involved in actions that have resulted in death while the respective investigations are being carried out. In these cases, especially, the police officer should receive psychological support and specific training in the use of force and firearms.
- Strictly control the use of high-powered firearms (such as rifles) and automatic weapons during police operations in favelas and other densely populated urban areas. Such weapons must only be used in exceptional circumstances of extreme danger, where their use is essential to achieve a legitimate law enforcement objective.
- Guarantee that law enforcement officials have the necessary means, weapons and equipment to apply non-lethal force and progressive use of force in their operations.

TO THE PUBLIC PROSECUTION SERVICE OF RIO DE JANEIRO STATE:

- Set up a task force in the Public Prosecution Service that gives priority to killings resulting from police intervention, in order to promptly complete investigations that are still underway and bring the cases to justice.
- Fulfil its constitutional role of exercising external control of police activity, promoting effective actions to monitor the use of lethal force by the police.

TO THE FEDERAL GOVERNMENT:

- Guarantee proper implementation, in all federated states, of Resolution No. 8 of 20 December 2008 on the abolition of generic terms such as

“auto de resistência” and “resistance followed by death” in police records, incident reports, police inquiries and journalistic crime reporting. This will enable killings resulting from police intervention to be properly investigated and will ensure official forensic examinations, preservation of crime scenes and involvement of the Public Prosecution Service.

- Guarantee that all killings resulting from police intervention – regardless of classification – are investigated as homicides, and that the changes in the terms used in the case records do not give rise to a lack of transparency and/or loss of information regarding the number of deaths caused by police in the line of duty.
- Urgently implement a national programme aimed at reducing homicide rates, which includes national and state targets to reduce the number of deaths resulting from police intervention.
- Promote the necessary measures for information and statistical data about killings resulting from police intervention to be standardized at the national level and for all states to provide periodic information about the number of people killed in police operations.
- Give full autonomy and independence to police ombudsmen and internal affairs services, as well as sufficient resources for capacity-building and competent performance of their functions.

TO THE NATIONAL CONGRESS:

- Approve Bill 4471/2012, which amends the Code of Criminal Procedure and establishes procedures to guarantee the proper investigation of crimes resulting in violent death that involve law enforcement officials.
- Approve specific legislation that establishes the basic parameters for the creation, definition of tasks and functioning of the external police ombudsmen in each state. The external ombudsmen must be given budgetary and operational autonomy, be entrusted with overseeing the actions of the police and fulfilment of the duties of its professionals, as well as having disciplinary powers.
- Incorporate into national law the international principles and standards on the use of force, particularly those set out in the United Nations Code of Conduct for Law Enforcement Officials and in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

LIST OF ACRONYMS AND ABBREVIATIONS

- AI** - Amnesty International
- AISP** - Integrated Public Security Areas (Áreas Integradas de Segurança Pública)
- ALERJ** - Legislative Assembly of Rio de Janeiro State (Assembleia Legislativa do Estado do Rio de Janeiro)
- BAC** - Police Dogs Unit (Batalhão de Ações com Cães)
- BOPE** - Special Police Operations Battalion (Batalhão de Operações Policiais Especiais)
- CCP** - Code of Criminal Procedure
- CDDPH** - Council for the Defence of Human Rights (Conselho de Defesa dos Direitos da Pessoa Humana)
- CORE** - Special Resources Unit (Coordenadoria de Recursos Especiais)
- Datasus** - IT Department of the Unified Health System (Departamento de Informática do Sistema Único de Saúde)
- DF** - Federal District (Distrito Federal)
- DG** - Douglas Rafael da Silva
- DHPP** - Department of Homicides and Protection of the Person (Departamento de Homicídios e Proteção à Pessoa)
- ECU** - Emergency Care Unit
- FLASCP** - Latin American Faculty of Social Sciences (Faculdade Latino-Americana de Ciências Sociais)
- GPAE** - Policing Group in Special Areas (Grupamento de Policiamento em Áreas Especiais)
- IACHR** - Inter-American Commission on Human Rights
- IBGE** - Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística)
- ICCPR** - International Covenant on Civil and Political Rights
- IML** - Institute of Forensic Medicine (Instituto Médico Legal)
- IPEA** - Institute of Applied Economic Research (Instituto de Pesquisa Econômica Aplicada)
- IPP** - Instituto Municipal de Urbanismo Pereira Passos
- ISP** - Institute of Public Security (Instituto de Segurança Pública)
- MPB** - Military Police Battalion (Batalhão de Polícia Militar)
- OAS** - Organization of American States
- PM** - Military Police (Polícia Militar)
- PROVITA** - Assistance Protection Programme for Victims and Witnesses At Risk (Programa de Assistência a Vítimas e Testemunhas Ameaçadas)
- RJ** - Rio de Janeiro
- SENASP** - National Secretariat for Public Security (Secretaria Nacional de Segurança Pública)
- SIM** - Mortality Information System (Sistema de Informações sobre Mortalidade)
- UA** - Urgent Action
- UNDP** - United Nations Development Programme
- UPP** - Pacification Police Unit (Unidade de Polícia Pacificadora)
- WHO** - World Health Organization

LIST OF TABLES, GRAPHICS AND MAPS

TABLES

Table 1 – Homicide rates among young people in some Brazilian capitals in 2012 – page 12

Table 2 – Number of on-duty Military and Civil Police killed in Rio de Janeiro State between 2005 and 2014 – page 36

Table 3 – List of cases reported as killings resulting from police intervention in Acari in 2014 – page 46

Table 4 – Progress of administrative proceedings concerning killings resulting from police intervention registered in the city of Rio de Janeiro in 2011 – page 67

GRAPHICS

Graphic 1 – Number of killings resulting from police intervention by region of Rio de Janeiro State between 2005 and 2014 – page 36

Graphic 2 - Number of intentional violent deaths and killings resulting from police intervention in the city of Rio de Janeiro between 2010 and 2014 – page 37

Graphic 3 – Number of killings resulting from police intervention in 2014 by Military Police Battalion in the city of Rio de Janeiro – page 37

Graphic 4 – killings resulting from police intervention, by sex, in the city of Rio de Janeiro between 2010 and 2013 – page 38

Graphic 5 – killings resulting from police intervention, by race/colour, in the city of Rio de Janeiro between 2010 and 2013 – page 38

Graphic 6 – killings resulting from police intervention, by age, in the city of Rio de Janeiro between 2010 and 2013 – page 38

Graphic 7 – killings resulting from police intervention in Rio de Janeiro State, the city of Rio de Janeiro and specific areas of the capital in 2014 – page 45

MAPS

Map 1 – Brazil / Rio de Janeiro State / Zona Norte of the municipality of Rio de Janeiro / ACARI – page 18

Map 2 – Killings resulting from police intervention in Rio de Janeiro State between 2005 and 2014 – page 35

YOUNG BLACK ALIVE Campaign

In 2012, 56,000 people were murdered in Brazil. From these, 30,000 were young adults ranging from 15 to 29 and, from this total, 77% were black. Most homicides were caused by firearms and less than 8% of cases actually reached trial.

In spite of the exceedingly high homicides rate of young, black men, the topic is still treated with indifference in the national public security agenda. The consequences of prejudice and negative stereotypes associated to these young men and to favela and peripheral territories must be widely debated and rejected.

With the purpose of mobilizing society in breaking with its indifference, Anistia Internacional Brasil launched, last year, the Young Black Alive campaign.

Get to know the campaign in our website: anistia.org.br. Participate and get engaged!



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