

Police Organization, Accountability and Human Rights in Brazil

**Eduardo Paes Machado
Ceci Vilar Noronha**

Summary

The text focuses on the rules and practices relative to the force used by the Brazilian police. It describes the evolution of the police forces during the post-colonial period, emphasizing the authoritarian and patrimonial characteristics of these organizations. It shows that the standard of excessive use of force is due to the generic character of regulation, the lack of internal control, and the insufficiency of police training. Besides abusing authority, the police organizations in Brazil use other arbitrary and violent resources which result in elevated numbers of murdered civilians. Contrary to the tendency towards increasing external control over the police forces, enhanced by the Constitution of 1998, these forces continue to create obstacles in regard to their accountability. This clash between authoritarianism and democratic procedures of delegating responsibility, permeates the relationship between the Police Review Boards and the external instances of control, such as the Public Ministry, Ombudsmen, and others. In spite of this, there has been an increase in the participation of citizens as watchdogs of the police forces, generating new policing policies in some states and proposals for an amendment to the Constitution. It concludes that substantive changes in the standard of the use of force depend on the democratization of society, the construction of new mechanisms of social control, and a redefinition of the role of policing.

THE EVOLUTION OF POLICING

Police force goes back to Brazil as a colony and during the period of slavery where, apart from private policing carried out in the sugar plantations by overseers or country captains, there was public policing to assist the troops responsible for territorial defense.

Such a type of policing persisted until the first decade of the 19th century, when the first specialized police force was created: The General Superintendency of the Police and The Royal Guards of the Police, the former having been inspired in the French institution *Lieutenant General de Police* (Waldman 1996; Tavares dos Santos 1997; Bretas 1997).

By means of these two police forces, the state began to provide instruments of control, which before this were entrusted only to the class of land-owners and their private agents, in order to repress and exclude the segments of the population which received little or

nothing of the benefits guaranteed for the ruling minority (Holloway 1997). This system, created for the purpose of facing the virtual political rebellions or urban slaves, began to fulfill new functions in a changing socioeconomic context, maintaining, however, a reasonable continuity regarding structure and procedure (Holloway 1997).

The General Superintendency of the Police took care of the administrative supervision and lawsuits, and was managed by the Minister of Justice himself who, besides being responsible for policing the capital, appointed the chiefs of police of the provinces. Staffed for several decades by unpaid officers, such as justices of the peace, subordinate chiefs of police, and subordinate inspectors, the Superintendency began to compensate its chiefs in 1871, a period in which it also lost part of its judicial powers (Holloway 1997; Bretas 1997). The Superintendency took on functions of political control, supporting fraudulent electoral schemes and the intimidation of political adversaries (Lemos-Nelson 2001).

Created for the purpose of patrolling the streets, the Royal Guard was substituted, in 1831, by the Military Police, conceived as the Armed Forces of the Police of Rio de Janeiro, then capital of the Empire, and model for similar organizations in the rest of the country (Mattoso 1992; Waldman 1996; Holloway 1997). From its beginning, the Military Police applied punishment and employed policing techniques, such as humiliations, threats, and physical aggressions, which reinforced public hostility. In rural areas, local private authorities, linked to groups of land-owners and merchants, incorporated part of the new policing model in order to maintain the existing relationships of power (Mattoso 1992; Holloway 1997).

The Republic, proclaimed in 1889, contributed to the improvement of qualifications and in making the police a little less subject to the game of political influence. It also created a new uniformed force – the Civil Guard – to complement the action of the Military Police, as important material and managerial improvements were carried out in the Civil Police (Bretas 1997).

Amid these advances, the police reaffirmed clientalistic relationships with the elite in power, who tolerated police violence and corruption as long as they were only being

directed towards the popular classes. The expectation of the elite was that public order be maintained, no matter what methods were used by the policemen against the masses which were considered uncontrollable and inferior (Bretas 1997).

With the Revolution of 1930 the power of the local private authorities was reduced, and the first police academies were founded. The Civil Police, in turn, was refashioned to act as a secret political police force against the political adversaries of the dictatorial regime of Getúlio Vargas.

This legacy prevailed in the following decades, when new authoritarian impulses, such as the 1964 coup d'état, prioritized the ideology of the cold war and the fight against domestic allies of international socialism and communism. For this reason, the policemen began to be trained in anti-guerrilla techniques by qualified instructors from North American military academies. The police forces were armed with machine guns, developing coordinated actions among themselves and with the armed forces, to watch, arrest, extract information, and to eliminate members of political organizations considered subversive.

It was also a time in which the death squads, which initially arose in São Paulo in the Civil Police Force at the end of the 1950's in order to execute delinquents, began to integrate the repression of political opponents of the government, intensifying the elimination of suspects and eventually becoming an important link to organized crime in the 1980's (Barcelos 2001; Mingardi 1991).

During the transition from a military to a civilian regime, from 1979 to 1985, the congressional lobby of the military police obstructed (as it continues to obstruct) reforms by members of parliament who feared being accused of retaliation against the authoritarian regime, and thus kept the old police model intact.

POLICE ORGANIZATION

The constitution defines safety as a universal condition for the development of personality and collective coexistence, an obligation for the state and a right of the citizens, to be exercised for the preservation of public order and property (Brasil 1988; Cretella Júnior 1988). Responsibility for public safety is allotted to various agencies, at the federal, state and municipal levels, by means of a hierarchy of police forces (Brasil 1988).

The Federal Police, (tables 1 and 2), has more extensive responsibilities. In order to fulfill them, the Federal Police (henceforth FP), which is subordinate to the Justice Department, has regional superintendencies, police stations, branch offices, and river and land bases. The FP was directed by military officers and actively participated, along with other police forces, in the repression of the political dissidents of the dictatorial regime during the 1960's and 70's. In general, the FP is very far from fulfilling its functions in controlling illegal activities (drug traffic, commercialization of weapons, smuggling, and shipping of money outside of the country), security supervision.

The Military and Civil Police Forces (from now on referred to as MP and CP), act within the limits and under the administration of the 26 states of the Union. The MP and the CP have differentiated responsibilities of preventive and investigative policing, which, in the majority of modern police forces, are gathered into a single organization. The consequences of this fragmentation of activities, called police dualism (Soares 2001), go beyond the traditional rivalry among police departments (Maguire, Norris 1992; Hobbs 1988), increasing the competition for scarce resources, limiting communication, and impeding joint decision-making.

Both police forces nominally owe obedience to the state governments, under specific secretariats which have variable denominations across the country, and which, with varying other responsibilities, coordinate the activities of the two police forces. However, only the CP is effectively subordinate to the state governments, given that the MP is under their administration and at the same time under the control and coordination of the federal government, and, in particular, the armed forces (Bayley 1985; Cretella Jr. 1988).

Though a subversion of federative principle (Soares 2001), the juridical statute of the MP, as an auxiliary force to the Army, guarantees the power of the latter over civilian political institutions in controlling the MP, restricting the authority of the states and reducing accountability.

Table 1 - Police Forces in Brazil, 2001

Union	States	Municipal Districts
Federal Police Federal Highway Police Federal Railroad Police	Military Police (including the Fire Department) Civil Police	Municipal Guards* Traffic Officer

Source: Federal Constitution of 1988

The Constitution does not oblige the municipal districts to create their own security forces; this prerogative depends on the decision of each municipal district.

If the MP organization assures a certain autonomy from interference due to external policies, the same does not occur with the CP or judicial police.

The civil police is an auxiliary force of the judiciary which investigates crimes, prepares inquiries and instructs in legal processes. Accordingly, this police force selects the cases to be sent to the judiciary, determines the profiling of the accused, and selects crucial evidence for trials. The civil police, subordinate to the political control of the state executives, and acting simultaneously as an auxiliary force to the judiciary, raises enormous problems for democratic accountability (Lemos-Nelson 2000).

The police forces controlled by municipal districts are the Municipal Guards (Table 2), which only exist in some of the big cities in the country, and the so-called administrative police forces which investigate the use of public space and, more recently, urban traffic. These are unarmed, with fewer employees. They have acquired a negative image, and are thus derogatorily called "*rapas*", for the abuse of authority which they commit against informal street traders.

Table 2 - Responsibilities of the Police Forces in the Federal Constitution of 1988

Federal Police	Military Police	Civil Police	Municipal Guards
<p>Policeing of an investigative, ostensible, and preventive character; narcotics, smuggling, etc.</p> <p>Acts as marine, aerial, and border police.</p> <p>Exclusive responsibilities in the ambit of the Federal District and Brazilian Territories.</p>	<p>Ostensible police and preservation of public order.</p> <p>Auxiliary Force of the Army.</p> <p>Commands the Fire Department.</p>	<p>Judiciary Police in investigations of penal infractions (except for those of the military).</p>	<p>For protection of goods, services, and municipal facilities.</p> <p>In the municipalities, where organized, answerable to the Military Police</p>

Source: Federal Constitution of 1988

This negative image extends to the MP and the CP, whose performance was evaluated as bad and very bad for 41% of the population of the metropolitan area of Salvador (Noronha et al. 1997), making the victims of theft (76%), and physical aggression (66%), avoid seeking their help (PNAD 1990).

Such discredit is reinforced by the lack of assistance to the complaints of the citizens, inefficacy in the investigation the crimes, and the behavior of the police force, seeking to work less, discouraging, by means of public revelation of the identity of those who report crimes, the vital policing practice of reporting (Paes Machado et al. 1997; Noronha 2000).

Human Resources and Compensation

The most recent data on the policemen of the country reveal a much greater number of Military Policemen (345,487), than of Civil Policemen (67,525). Following these are the Firemen (57,605), which, although they exercise functions of civil defense, are subordinate in most states to the MP, and a subgroup of investigative policemen, called the Technical Police (4,772). The Federal Police is limited to a contingent of 8,000 employees.

This number of policemen summed together comes to an amount of almost half of a million (483,389), distributed inequitably in regional and demographic terms. The distribution of accessing of services among social groups is similarly unequal, as the poorer population uses the police less than the wealthier population.

In terms of private policing, information for Brazil indicates the existence of 313 companies, many of these controlled by public police force officers, suspecting, however, that another 300 are functioning illegally, without obeying the laws, and without the inspection of the Federal Police. These companies are responsible for an amount of 800,000 guards, many armed, of which only 500,000 are regularly authorized. They represent a quantity three and a half times greater than that of the armed forces of the country (Miranda 2001).

In Bahia, however, there are about 130,000 security guards, including those who work in non-regulated or un-registered companies. According to one of the largest companies in the security sector, only 89 companies possess qualification to sell security services, while more (111 companies), work in an illegal manner (c.f. article, "Vigilantes fazem protesto" - "Security guards protest", 2001).

A significant number of the employees of these companies are policemen of low rank complement who their low pay (with an average national salary varying from US \$263 monthly to US\$ 1,529 monthly) - through these companies, to the detriment of their activities in public policing and their personal health and safety.

Another consequence of the low salaries is their living conditions; the policemen live in slum areas dominated by street criminality where, exposed to the temptations of crime and fearing for their own safety and that of their families, they establish alliances with delinquents or alternately engage in “social cleansing” (extermination).

The third effect of this situation is the vehement actions of protests, and violent strikes in several states of the Federation, causing serious damage to public order and the citizens' safety.

We focus below on the rules, practices, and mechanisms of accountability used by the Military and Civil Police Forces.

THE REGULATION OF THE USE OF FORCE

The use of force and firearms is regulated by penal law and through the disciplinary devices of the Police Force.

According to the Penal Code (article 23), the policeman, in order to use a weapon and/or force, must consider the legality and legitimacy of the action (Brasil 2000a). In this manner, all excess, disproportion, and unnecessary action constitute conduct classified as criminal, making it the responsibility of the Commander of the MP and the Chief of Police of the CP to investigate.

Making the employees legally answerable for excesses and abuse against delinquents as a way of controlling criminality (Gabaldón 1996; Paes Machado et al. 1997), however, is made difficult by the approval, by the police, jurists and the public of such actions. Relying on this approval, the police may react disproportionately, justifying themselves by

the victim's social condition and not the act of aggression committed by themselves as representatives of the Union. There are often disputes as to the definition of the attacked person as a delinquent or not.

With regard to internal rules, the disciplinary regulation of the MP (Bahia 1996), makes the employee responsible for acts of abuse which go beyond stated orders, while the Statute of the Civil Public Service Officers (Bahia 1994), prohibits all action or omission contrary to the duties and dignity of the position.

Reflecting on the fragmentation of police work, various activities overlap, such as the utilization of firearms, in vehicles, by civil policemen, and the temporary guarding of (or custody of), prisoners by military policemen. Both categories of policemen - military and civil - can exceed or commit acts contrary to their duties in activities which, while not abnormal to their work routine, are not seen as such officially or are not included in the specific regulations of the corporations.

Regulation of the MP is restricted to three succinct paragraphs on the circumstances in which it is not possible to use weapons. It specifies the prohibition of using arms beyond the work schedule, using private weapons on duty, or shooting at inappropriate times, but does not describe when, where, and how to shoot.

Focusing on the Statute which governs the CP, insofar as deviation from duty is concerned, clauses of federal legislation condemn the abuse of authority (Brasil 2000b), referring to attacks against the physical and legal safety of individuals. However, there is little on the illegal appropriation by extortion of citizens' goods by police officers.

International pressure against the physical and mental assaults on the population caused the federal government to approve a law against torture - to acquire information, declarations, or confessions from victims or from third parties (Brasil 2000c) - which, as with other multilateral conventions signed in Brazil, is extensively disobeyed, contributing to maintaining distance between the so-called "real country" and the "legal country".

The bearing of firearms, for self-defense, is regulated by a law (Brasil 2000d), which exempts police authorities, MP officials, and common policemen (sergeants and soldiers), from having a license. Even licensed officers may only carry regular weapons when in service or with an order from superiors, and still need written permission to buy or carry personal weapons when not in service.

Such control of private weapons is respected very little, due to various factors: a shortage of available official weapons, the perception of professional danger, the use of weapons by policemen at work for security companies, and the use of force by the policing groups.

THE MANAGEMENT OF THE USE OF FORCE

As a result of the aspects examined above - history, legislation, and specific responsibilities - the organizations of the two police forces show remarkable differences in terms of authority, centralization, and the exercising of police functions.

In copying the military model of organization, the MP characterizes itself by the concentration of decisions, inflexibility of communication, and standardization of procedures (Waddington 1982), giving more value to internal discipline than to the quality of the service rendered (Guimarães 2000), or the end product of the policing (Mariano 2000; Soares 2000).

Among the consequences of this link between the MP and the Army, there is an organizational ladder in which mobility occurs by means of medals, badges, concluded courses, diplomas, complements, and reprehensions (Leirner 1997). In both sub-cultures, the effective code is that of classifying each individual in the organization, defining what he was, what he is, and what he will be. In the two cultures the *length of service* category is also counted, in order that any officer of the army or the MP, to be immediately *located* in the timeframe of his culture, will indicate the year of his graduation as an identifying code, and should only spend a designated period within a certain rank.

Taking the MP of the State of Bahia as an example, its commander in chief, a colonel, is responsible for the operational coordination, planning, teaching activities, and the Review Board. The hierarchy, following the pattern used by the Army, is based on ranks, such as, colonel, lieutenant-colonel, major, captain, lieutenant, sergeants and “soldiers” (privates).

Although the police reform in the 1990's has reduced the number of ranks – from 23 to 16 - the military police corporation maintains a ultra-centralized hierarchic structure which conditions the base of the pyramid toward passive behavior, with little possibility of personal expression and contribution, where all problems have stock solutions (Guimarães 2000).

The hierarchical regime is maintained and reinforced by the terms of entrance (long-term college education for officers, and short-term educational programs for sergeants and soldiers), remuneration, the promotion scheme, and the disciplinary code, which, based on the Penal Code of the armed forces, possesses a holistic character, proposing that military police ethics be incorporated in all circumstances by the members of the corporation (Goffman 1996).

The application of this rigorous and detailed disciplinary code is more severe for the inferior ranks, subject to expulsion from the corporation, than for the superior ranks, subject, at most, to re-deployment and loss of bonuses. The difference of treatment generates hostility. Though taking up a great amount of time, these tensions do not prevent the lower officers from feeling part of the military police *family*, a uniformed and armed brotherhood, with the power to enforce the law on civilians, who are also called *carefree civilians (lazy)*, to denote their illegitimacy as dependents on the Police (Paes Machado et al. 2001).

Among the models of conduct, that of the police hero or super-hero, embodied in courageous men, capable of committing aggressive and violent acts against delinquents, is most valued. That dominant model, prevalent across Brazilian society, prioritizes emotion, producing amateur and harmful actions, with unexpected results and

unnecessary consequences, for policeman as well as for other involved persons (Guimarães 2000).

The power of this conception also permeates the performance evaluations and the results of inquiries, resulting in the tolerance and approval of misconduct, including the awarding of badges to indicted policemen.

This *homo hierarchicus* model, which is very valuable to the MP, is incomprehensible in the ambit of the organizational culture of the CP, striped of the opulence of rites, myths, and symbols, and of the advantages provided by the pyramidal organization of the former.

Still using Bahia as our example, the CP, directed by the Chief of Police, includes intermediary organizations, departments, sub-district and specialized police stations, (Homicides, Protection for Women, Repression of Theft and Robbery, Protection for Tourists, etc.), and coordination of the inland municipal districts. The hierarchy is composed of chiefs of police - title holders and common chiefs of police - clerks, commissaries, and investigators.

Like many government institutions, the police stations follow only partly the logic of Weberian bureaucracy, being permeated by aspects of Brazilian national culture in public administration, nurturing strategies and traditional practices of corruption, by means of reducing obligations through friendship, kinship, patronship, creating an exchange of favors and a traffic of influences (DaMatta 1983). These practices impede any modernizing effort.

Where there is not a clear vertical model of organization, it is up to the chiefs of police to create personal management regimes, repeating the stereotype of the *hard line* model, which controls the team of auxiliaries with an *iron hand*, oscillating between paternalism which pretends not to see their subordinates' excesses, or a demanding and tyrannical toughness imposed by means of coercion. This standard of personalized authority leads to "flexibility" from official written codes (DaMatta 1985; Barbosa 1992).

The “personalism” of management turns the police stations into true islands of an archipelago, operating on their own priorities, as well as preventing the coordination of activities, the circulation of experiences, and evaluation of police work (Soares 2000).

Poorly paid and working under precarious and degrading conditions, the civil policemen, as well as the military policemen, accomplish their activities in an environment of dissatisfaction, mutual distrust, and fear of their colleagues or the hierarchical superiors. The enormous unsteadiness between expectations, institutional and professional, and material (as well as symbolic) compensations, encourages the use of force in order to obtain personal advantages and to commit misconduct. Those policemen against such illegal methods had better keep quiet so as not to be seen as traitors and be subject to retaliation (Skolnick 1966).

Investigative activity benefits fundamentally rich and influential citizens, not poor victims. One of the main resources of investigation, based on inquisitorial methods (Lima 1986), is torture – given other names by using such expressions as *make the suspect confess* and *stress the suspect* - applied by orders given by chiefs of police or on the initiative of subordinate policemen.

Torture is also used by the CP as a facilitator of extortion, serving to pressure delinquents, with or without the mediation of lawyers, to pay for or deliver the stolen products in exchange for freedom or the attenuation of charges (Mingardi 1991; Lemos-Nelson 2001). The suspects, which can be detained several times for the same reason, end up becoming clients and connections for the police with the world of crime (Paes Machado et al. 1996; Lemos-Nelson 2001).

In the CP, disciplinary penalties derive from to the rules of the Statute of Civil Public Servants of the State, applied after investigation or administrative process. In practical terms, the CP avoids applying disciplinary penalties so as not to harm corporatism, developing inquiry practices which are based more on personal criteria than on the seriousness of the facts.

This said, the modalities of the management of the use of force also depend on the type of training administered to the members of the two police forces.

Training

As a result of the organizational division, the MP and the CP have their own academies and training programs, which, besides representing a duplication of efforts, contribute to separatism between the two police forces.

In these programs they do work on the circumstances in which the policemen can use force or firearms, but the lack of standardized procedures on the subject (Organization of the United Nations [1990] 2001 Australian Federal Police Legislation 2000; Ontario Police Services Act 1995), favors a variety of interpretations, many times guided by individual or standing corporate values.

The influence of military and warrior mentality (Kraska 1996; Franke 2000) is expressed in what little importance is given to the transmission of negotiation techniques (*dis-escalation*), of conflicts, and moderate use of the so-called intermediary resources of force, between verbal commands and firearm, including billy clubs. In addition to this, silhouette models for shooting are used in training, giving priority to the lethal parts of the human body (Police Ombudsmen of the State of São Paulo 2001), not emphasizing the importance of preserving the lives of the suspects.

The almost complete lack of weapons and ammunition constitutes a serious obstacle for the shooting training, causing the policemen not to acquire proficiency (Linhares de Albuquerque 1999), and making them a threat to public safety when obliged to shoot.

In general, the reform of police teaching, aimed at compatibility with the new legal code, was restricted to general theoretical lines, without modifying operational methods. It did not overcome resistance to the modification of police procedures so as to reduce the disproportional use of force (Linhares de Albuquerque et al. 2001).

POLICE EXECUTIONS

Apart from abuses inflicted by authorities in other democratic societies (Stenning 2001), the Brazilian police forces use many other arbitrary and violent resources, among which executions stand out (Chevigny 1995; Hugguins 2000; Cano 1997; Cedec 1997; Lemos-Nelson 2001; Paes Machado et al. 2001).

The high number of Brazilian police executions (Chevigny 1995), reflects the type of mandate for policing. The three most populous Brazilian cities are São Paulo, Rio de Janeiro, and Salvador. In the first city, the police killed 1,428 people in 1992 (1,421 by the MP and 7 by the CP). Although this violence declined in 1993 to 300 annual murders, it rose again to 430, in 1998, and 664 in 1999. In Rio de Janeiro, the police homicides doubled between 1997 and 1998, with 430 civilians dead in 1998, totaling 38 violent deaths a month. Proportionally, Rio's rate of lethal violence is double São Paulo's (Cano 1997; Hugguins 2000). Still, the proportion of police homicides in Salvador of 21% (Cedec 1997) in 1994 surpassed that of São Paulo and Rio de Janeiro (10%; Cedec 1997; Cano 1997).

Among these victims are numerous people who were killed trying to escape (Cano 1997), or were represented as such by police (Barcelos 1991). In the first case, the suspects take the initiative of running away from the representatives of the law; in the second, the policeman fake situations of escape, obliging suspects under their responsibility to run in order to permit the police to shoot them in the back.

The disaggregation of these rates by the distinct social levels, proves that poor juvenile males (Cedec, 1997; Sousa Santos 2000; Birkbeck 1996; Zaluar 1994), and non-whites (Adorno 1999), are the main target of the policing policies of the poor workers (Cray 1972; Lee 1981), and of the war against crime.

In São Paulo, of the 664 victims of police violence in 1999, 48% lived in lower class districts in the capital city, 55% were black, 51% were between 18 and 25 years of age

(11% were under age), and 58% did not possess criminal records (Police Ombudsmen of the State of São Paulo 1999).

In Rio de Janeiro, the characteristics of the victims are similar: 70% were young people between the ages of 18 and 25, black (62%), poor, and without criminal records (Cano 1997) ⁴. In Salvador, on the other hand, 97% of the fatal victims of the police in 1997, were male, 47% were between 15 to 29 years of age, 76% had had only an incomplete elementary school education, and 99% were black-mestizos (Sousa Santos et al. 2000).

If a significant part of these homicides were committed by agents on duty, another part occurred when the policemen were off duty, working for private companies or persons, death squads, and groups of security guards (Huggins 2000). In São Paulo, in the year 1999, 63% of 109 civilians eliminated by military policemen, were killed by policemen working for those companies. Among the civilian deaths caused by the CP in the same state, in 1999, half occurred when the agents of this police force were working off duty for public security (Huggins 2000).

By expressed order or imitation of poor policing models (Shearing 1992), these policemen make use of lethal force with the support of their private contractors and the negligence or approval of authorities.

On the inaccurate frontiers which separate the formal and informal, legal and illegal security market, data for the metropolitan area of Salvador, corresponding to the period of 1996 to 1999, show that, of a total of 4,248 murders, 8% were the result of action taken by death squads and extermination groups composed of civil and military policemen (Ribeiro 2000)⁵, at the service of merchants, poor inhabitants, and others.

In this great market of in-security, the demands range from security actions against poor people, who problematize the image of certain places, frightening off consumers and disturbing the inhabitants' peace, to actions of a more drastic character against delinquents or "marginal citizens" (Paes Machado et al. 1997).

The most valued workers in this role are those policemen who, besides their service experience, rely on the rear-guard and the power of retaliation of the public police to intimidate and, if necessary, eliminate delinquents for amounts equal to or less than US\$400.00 (Paes Machado et al. 1997; Paes Machado et al. 2001).

Reasons for murder by police do not stop here; there is evidence of police participation in illegal markets of stolen goods (Paes Machado et al. 1996) and drugs (Lemos-Nelson 2001). Violence is a means of conflict resolution. Making use of their power of retaliation, the policemen become agents, partners, and leaders of criminal enterprises, dedicating themselves to collecting their “payola” or actually monopolizing illegal business. The scale of use of criminal lethal force by police gives us an idea of the enormous challenges for democratic accountability.

ACCOUNTABILITY

In the Brazilian administrative tradition, control of the public sphere is recent. Against the tendency towards increased control enhanced by the Constitution of 1988, various organizations of the Union continue to create obstacles to accountability. This clash between authoritarianism and the democratic practices of delegating responsibility, permeates structures, operations and inter-institutional relations between internal and external accountability agencies (Chevigny 1995).

Police Review Boards

Created as a mediation between the police, the public, and the Judiciary, Review Boards have a weak and even opposite action to that which is expected, usurping the powers of other organizations of the judiciary system, and placing their administrative rules above the Brazilian Penal Code (Lemos-Nelson 2001).

There is excessive concentration of administrative and penal authority in the chief board reviewers. This contrasts with the lack of autonomy exhibited by most of the employees who, not having stability in their positions, can be transferred to other police

departments and, therefore, are pressured to answer for decisions made while working in the Review Boards.

The fragility of the Review Boards is also expressed in the limited material and human resources for undertaking investigations, forcing them to concentrate the work in the capital cities of the state and in a few police activities.

With regard to the Review Boards of the MP, cases of police misconduct are tried more according to corporative and hierarchical criteria than with equality before the law (Zaverucha 1999). Of the total of all policemen punished by the MP Review Board in the state of São Paulo, only 10% were higher officials.

As for the CP Review Board, it was observed that it punishes less than that of the MP (Mariano 2000), protecting police agents accused of torture and summary executions, by means of several methods: the archiving of accusations when the victims were suspects; torture; non-investigation of the deaths of suspects by the police, slowness and inefficacy in preventing new crimes by policemen under investigation, and lack of knowledge concerning the penal code (Lemos-Nelson 2001). Despite the risk factor for accusers, especially when they do not have external support, the CP of Bahia Review Board provided positive answers to the small number of accusations formulated by individuals supported by family members, friends, and institutions (Lemos-Nelson 2001; Tapparelli 2001).

Such characteristics of Review Boards, resulting from the lack of political will to make them work effectively (Chevigny 1995), and from the lack of pressure by citizens, limit joint efforts between police forces and external mechanisms of supervision.

Public Ministry

The broadening of the responsibilities of the Ministry for the Public [???] (from now on PM), in the Constitution of 1988, caused it to become a fourth power of political society, responsible for consumer and environmental defense, control of public administration, and policing (Arantes 1999).

With powers to undertake inquiries of the police, the PM receives accusations, visits police stations, ascertains the legality of detentions, pressures for accelerating inquiries, and, in conformity with the importance of each case, designates prosecutors (Sanchez Filho 2000).

The important role of the PM in the inspection of executive and legislative powers, however, has not been much applied to the police forces for several reasons. Within the elitist tradition of the Brazilian judiciary, the police continue to be seen as a secondary subject, dangerous and negligible, from which one should keep a distance. This distance is intensified by a relationship of competition and rivalry between prosecutors and police chiefs (Sanchez Filho 2000).

In addition to this, the lack of autonomy of the PM from the state executives who control the resources and promotions of employees impedes supervision, making the institution not have specific policies for the police forces or limiting itself to merely reactive actions (Sadek 1997; O'Donnell 2000; Sanchez Filhos 2000; Lemos-Nelson 2001).

Ombudsmen

The elevated number of police crimes, together with the existence of pressure from human rights protests, international agencies, and the police reform process from the second half of the 1980's, lead to the creation of the first Police Ombudsman, in the state of São Paulo in 1995.

In the first five years of operation, the São Paulo Ombudsman (not yet studied here), documented police violence, registering abuses of authority, announcing and sending accusations to Review Boards and to the Public Ministry.

The National Forum of Police Ombudsmen was formed by the initiative of the Ombudsmen, together with human rights groups (more than 80 NGOs in the entire country), and is regulated by the federal government, which guided the creation of new

Ombudsmen in the state of Pará, Minas Gerais, Espírito Santo, Rio de Janeiro, and Rio Grande do Sul.

Acquiring great visibility, the Ombudsmen elaborated proposals aiming at improving organization and police operation, contributing to reforms carried out in other states, such as Rio Grande do Sul (see the final section of this project; Police Ombudsmen of the State of São Paulo 2000).

Other Agencies

Complementing the actions of these agencies are the Parliamentary Commissions of Inquiry (PCIs), and the Human Rights Commissions of State and Federal Assemblies, as well as NGOs.

The Parliamentary Commissions of Inquiry, particularly when they rely on the support of public opinion, have been an important instrument to investigate police misconduct. Although this has not culminated in the punishment of the guilty, a recent inquiry on narco-traffic activities in the country achieved exciting results. Besides clarifying the dangerous connections of drug traffic with other criminal activities and with government, this PCI led to the punishment of a federal deputy, an ex-commander of the MP, connected with extermination groups and narco-traffic in the state of Acre, along with policemen from other states.

The Human Rights Commissions have been acting against serious human rights violations which, at some moments, as in the case of the accusation of the participation of a commander of the MP in the state of Bahia in an extermination group and drug traffic, caused the deputy president of the commission to fear for his own personal safety. Overwhelmed by the volume of work and in a line of inevitable confrontation with the police forces, the Commissions have not achieved much so far.

Human rights NGOs, many of which arose in the 1980s, have varied purposes, such as denouncing serious violations, helping vulnerable populational segments, and social mobilization. Among the organizations directed towards mobilization, the community

forums against criminal and police violence stand out. A brief evaluation of this type of forum, in São Paulo and Salvador, reveals both advances and limits in social participation in relation to the model of policing. The forums show that the poor communities do not agree with police excesses, but they have been impotent in modifying police practice.

Public media have played an important role in the publicizing of human rights violations and police corruption, contributing to the debate concerning the authoritarian model of policing and advocating initiatives for citizens' safety. However, journalistic work, extremely dependent on information supplied by the police, and the involvement of the media with the "war against crime", causes the police to continue to constantly legitimize serious human rights violations (Noronha 2000).

The system of accountability mechanisms still do not satisfactorily respond to the challenges established by the use of force. It is necessary to promote inter-institutional work and to advance reforms of the police model, since this model blocks the operation of the Review Board and its synergy with the Public Ministry and Ombudsmen.

PERSPECTIVES

The term "crisis" is the most adequate term in defining the situation of the governing of the use of police force. Inheritors of an authoritarian, patrimonial, and clientelistic tradition, both Iberian-American and Brazilian, the police organizations always appear as an extension of the elite or a ramification of executive power, in a clear disjunction with the guarantees of common law. Sheltering themselves under the ruling group, the police forces protect themselves from public scrutiny (Bisol 2001).

It is not surprising that these authoritarian organizations inspire fear, causing the policing to be out of tune with society. Opposing the expectations initiated by political transition, both police forces transformed themselves into bastions of authoritarianism (Pineiro 1997), maintaining their arbitrary practices and becoming an important connection to criminal networks⁷.

The positive side of the crisis is growth, under the new Constitution, of the citizens' participation in investigating the police forces, as well as the implementation of new police policies, with advances and retreats which depended on the force and scope of the reforms in several units of the Federation.

The extent of the changes was greater in states governed by leftist parties, such as Rio Grande do Sul, where the police reform was and is part of a broader democratic reform, aiming at un-privatizing or placing the state-owned organizations at the service of public interests. Consequently, substantial changes were made in terms of the integration of the activities of the two police forces, de-militarization of the MP, normatization of the use of weapons, and consolidation of accountable practices.

This success resulted in the mobilization of society and action by the executive power to neutralize, substitute, or remove groups formed around the so-called police *caciques* ("honchos" or chiefs, who, accustomed to controlling the organizations, did not agree with the changes in policing.

Such success is in the origin of the formulation, by jurists and progressive policemen, of an Amendment to the Constitution for a New Police Model, whose approval should broaden the legal mark for a security policy for citizens.

However, contrary to any juridical fetishism], which separates the law from its context of application (Thompson 1987; Reiner 1978), it should be remembered that changes in standards regarding the use of police force depends on the democratization of society, with the reduction of the inequalities between the privileged and the disenfranchized (rich and poor, whites and non-whites), democratic construction of mechanisms of social control, and redefinition of the role of policing.

Footnotes:

¹ Brazil is a federal republic with a territory measuring 8,514,215 Km², in which political and administrative organization comprehends the Union, the States, the Federal District, and the Municipal Districts. In the year 2000, the population had reached 169,590,693 million inhabitants, living in a more concentrated manner in the southeastern, northeastern, and southern regions of the country.

² In almost of 180 years of history as an independent country, Brazil has had eight Constitutions. The first was written in 1824, when the country gained its independence, the second was inaugurated in 1891, soon after the fall of the monarchic regime and the creation of the Republic. After the Revolution of 1930, the dictatorial government of Getúlio Vargas instituted the Constitutions of 1934 and 1937. With the fall of the dictator and the return to free elections, the Constitution of 1946 was created. At this time, Brazil had a short and vigorous democratic period, which was interrupted by the coup d'état of 1964. At this moment of political intolerance, the provisional government of 1964 introduced an amendment to the Constitution of 1946 which remained in effect until the second half of the 1980's, and was then substituted by the Constitution of 1988.

³ As if this was not enough, mistakes in inquiries by the military courts have allowed policemen expelled from the corporation for serious violations of human rights to have recourse to civil courts, where they have won readmission to the MP.

⁴ While in the more prosperous areas, one policeman was killed for each 35 murdered people, in the slums this proportion increased to one policeman for each 75 killed civilians. The analysis of the autopsies showed that the poorest victims had four or more bullet wounds, mostly in the back, in the thorax, and the head. Shot in the back, the victims were escaping from and not confronting the police (Cano 1997) as was claimed by the police and reported by the press.

⁵ The homicides, with the participation of groups of extermination, are denominated "slaughters" when they reach more than one person (Noronha 2000). The systematic

accompaniment of information published in the press in Salvador indicates that in 1995 there were only 25 slaughters of this kind, killing a total of 68 people (Pellegrino 1997). Likewise, the most famous slaughters were those of the 111 rebelling prisoners, in Carandiru Prison in São Paulo, in 1992, of 8 boys living in the streets of Rio de Janeiro, in 1993, of 21 slum inhabitants in the same city, in the same year, and of 19 rural workers in the state of Pará, in 1996.

⁶ In most of these events, the victims are immobilized and tortured before dying. The police agents involved seek to prevent the identification of the victims by removing the bodies from the site of execution, destroying their identity documents, burying and deforming the bodies, etc..

⁷ A dimension which should not be forgotten includes the protests carried out by police agents advocating better working conditions and promotional schemes. Initiated at the beginning of 1980's, the police strikes assumed major proportions in the year 2001, when the open contestation of hierarchy and discipline provoked the intervention of the armed forces in several states and the adoption of measures by the federal government which reinforced the authority of the Army over the military police forces.