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BRAZIL

Extrajudicial Execution of Street Children in Sergipe

Two adolescents, Erivan José da Silva, aged 14 and José Fernandes de Almeida, aged 15 were killed on 5 May 1992 in the town of Lagarto, Sergipe, Brazil, in circumstances that appear to indicate that they were extrajudicially executed.

According to the information received by Amnesty International, in the afternoon of Tuesday, 5 May, Erivan José da Silva and José Fernandes de Almeida were riding their bicycles in the Aldemar de Carvalho quarter in the town of Lagarto, when they were forced into a car by three men, two of whom were allegedly military police officers and the other a civilian. It is reported that one of the men shouted to witnesses of the incident that this was the last time that they would see the children alive.

The bodies of Erivan José da Silva and José Fernandes de Almeida were found the following evening under a 75 metres-high bridge on a road between Lagarto and São Domingos. They had their hands tied in their backs and had been shot three times each. It is reported that Erivan José da Silva had an ear ripped off and José Fernandes de Almeida was castrated before being shot. Two police officers from Lagarto police station, Delegacia de Policia de Lagarto, and a local landowner were accused by the police of the crime.

One of the police officers accused of having committed the crime was detained shortly afterwards. However he escaped from police custody while he was being taken under heavy guard from Lagarto to a military police barracks in nearby Itabuna and allowed to visit some relatives' home. The other military police officer and the civilian allegedly involved in the crime were detained and are in police custody.

Just before the crime, the local branch of the Brazilian Bar Association, Ordem dos Advogados do Brasil, OAB, had reportedly received denunciations that people, including minors, were kept in illegal detention in Lagarto Police Station, but the president of the Human Rights Commission of the OAB branch was denied access to the police station to verify the allegations. After the killing of the children the State Secretary of Public Security reportedly transferred all military police officers from Lagarto police station to other duties.

Sergipe is a small state in the North East of Brazil. According to the 1985 census it had 1.290.000 inhabitants, about 0, 2% of the total population of the country. As in other states of Brazil the killing of street children in Sergipe has become a major human rights

concern. According to judicial sources in the last three years 176 minors were assassinated in the state capital Aracaju alone. The killing of street children in Sergipe reached its peak between 1989 and 1990 when, according to the local branch of the OAB, there were 146 recorded killings of children and adolescents. In 1991 the corresponding figure was 26.* As in the rest of Brazil, most of the victims in Sergipe (60%) are black male adolescents. The vast majority of the crimes go unpunished.

On 16 November 1990 the bodies of four children, Carlos Meneses age 10, Antônio Carlos Pereira age 11, Genilson Francisco age 13 and Lucio Roberto age 12 were found in two different sites, Terra Dura and Limoeiro, in the outskirts of Aracaju. The children had been shot three times each in the head and abdomen.

The killings of Carlos Meneses, Antônio Carlos Pereira, Genilson Francisco and Lucio Roberto brought strong reactions from the people of Aracaju. At first the police alleged that the children were victims of a "drug war". However it was reported that at the time of the crime the police was under strong pressure from the local traders association, Clube de Diretores Lojistas, to put an end to a wave of break-ins in town centre shops. Street children denounced that civil police officers had been searching for the murdered children for some time because they regarded them as responsible for the break-ins and one witness, Flavio Silva Dias, also a street child, which was together with the murdered boys at the time of their killing, accused police officers of involvement in the crime. One police officer and three civilians were detained and charged by the police with the crimes.

On 28 October 1991 Flavio Silva Dias, the child that denounced the police involvement with the killings, was shot in the head and killed, allegedly by an eighteen year old youth. Flavio Silva Dias was due to testify on 19 November 1991 in the judicial proceedings against the alleged killers of Carlos Meneses, Antônio Carlos Pereira, Genilson Francisco and Lucio Roberto. The alleged killer has not yet been captured by the police. Legal sources have expressed doubts that after the killing of Flavio Silva Dias there will be enough evidence to bring to trial the alleged killers of the four boys or, if ever brought to trial, to convict them.

Background

It is estimated that there are in Brazil approximately 60 million children and adolescents aged from birth to 17 years, representing 41% of the total population. According to independent studies, more than 50% are from families living below the poverty line.

*The statistics cited are not AI figures, and they come from separate sources.

Non-accidental violent deaths (homicides and suicides) constituted in 1987 the primary cause of death in the 15 to 17 year old age group in several of Brazil's main cities.

According to the Federal Police, between 1988 and 1990 there were 4,611 recorded killings of children and adolescents in Brazil. A report published in February 1992 by a Parliamentary Commission of Enquiry of the Federal Chamber of Deputies states that the participation of civil and military police in the killing of children and adolescents is "far from exceptional" and that police killings is the third largest cause in the homicide of children and adolescents.

According to a statement given to the Parliamentary Commission by the president of the official Brazilian Centre for Infants and Adolescents, Centro Brasileiro para a Infancia e Adolescencia, CBIA, the main difficulty in breaking up the cycle of impunity is not so much the law, "but the organizational culture of the police, the judiciary, the state prosecutors, and, specially public opinion in itself, since in our own country there is a process of criminalization of poverty" (page 3).

"...As dificuldades principais para a quebra do ciclo da impunidade...como principal inimigo, não mais a lei, mas principalmente a cultura organizacional da Polícia, da nossa Magistratura, do nosso Ministério Público e especialmente o senso comum, porque existe em curso no nosso País um processo de criminalização da pobreza..."

In some cases, particularly when there is strong domestic or international pressure, the crimes are investigated and the alleged culprits charged by the police. But this does not ensure that justice is done. Impunity is fostered by the non protection of witnesses, frequent escapes of suspects from police custody, collusion of members of the police and the judiciary with members of death squads and long delays in judicial proceedings. Most of these elements are present in the above mentioned cases.

Over the last two years the Brazilian authorities at different levels have repeatedly expressed their concern for the killing of street children. In July 1990, following a growing internal and international outcry about the killing of street children, the Brazilian Government passed the Estatuto da Criança e do Adolescente, Statute of the Child and Adolescent, a legal code for the protection of children's rights. Art 5 establishes that:

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

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

A number of commissions of inquiries and working groups have been set up at federal and state level to conduct studies and provide recommendations on human rights violations against children and adolescents. Among the recommendations are the creation of a special policy body to fully investigate crimes against children; the creation of criminal courts dealing exclusively with crimes against children and the enforcement of improvements in the organization of the judicial system and special measures to protect witnesses of such crimes. However, in most cases the commissions' and working groups' findings and recommendations have not been followed by effective action to prevent further human rights violations and to bring the culprits to justice.