

STATE VIOLENCE: SEEKING ACCESS TO JUSTICE¹

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• *Analysis based on the narratives of victims' families* •
about the 2006 May Crimes, in the Baixada Santista area of São Paulo

RESUMEN

This article examines human rights violations resulting from state violence, in crimes in the Baixada Santista area of São Paulo in 2006. The article forms part of the study State violence in Brazil: research into the May Crimes of 2006 from the perspective of Transitional Justice and Forensic Anthropology, carried out by the Centre for Forensic Anthropology and Archaeology at the Federal University of São Paulo – CAAF/UNIFESP. It focusses on the narratives of victims' families and analyses state violence and the denial of access to justice, information and to memory. It concludes that there was consistent denial of justice in the lack of investigation and the premature filing of inquiries. The families were denied the right to information and were mocked, persecuted and slandered. It points to the fundamental need to make the stories and the struggle visible so they are not forgotten and so they cease to be excluded from the protection of rights and access to justice.

KEYWORDS

State violence | Human rights | May Crimes | Independent Movement of the May Mothers

1 • Introduction

Ten years ago, the Special Rapporteur on extrajudicial, summary and arbitrary executions, Philip Alston,² pinpointed state violence in Brazil as being in habitual violation of human rights. The state is not authorised to carry out extrajudicial executions, depriving individuals of their lives. On the contrary, it owes its citizens protection from being the victims of murder and the assurance that those accused of such crimes will have the right to appropriate legal procedures and full defence.

However, the Brazilian state has been responsible for numerous acts of violence, amongst them, those committed by policing organisations. Abusive practices often have the support of the public,³ who live in fear given the high rates of criminality and their distrust of the protracted criminal justice system.⁴

According to the 2017 Human Rights Watch (HRW) report, “abuse committed by the police, including extrajudicial executions, contributes to the cycle of violence that jeopardises public security and put police lives at risk.”⁵ The 11th Brazilian Annual Meeting on Public Security in 2017⁶ revealed that in 2016, 4,222 civilians were killed by the police and that 437 police officers were killed, most of whom were off duty. The justification for the killings is the protection of society.

Data shows that violence is recurring in Brazilian society and has been specifically affecting poor, young, black people on the periphery of the urban centres,⁷ indicating a veritable genocide of this population. State violence occurs when (i) guarantee of access to basic rights is denied (ii) there is blatant use of force by the police (iii) access to the legal system is impeded and (iv) families are denied access to information and to the right to preservation of their memories.

In May 2006 we saw an increase in rights violations, which could be described as a “scenario of exception to the rule of law in a democratic state”.⁸ The 2006 May Crimes, according to research into the subject,⁹ totalled 564 deaths by firearms in the period 12 to 26 May, in the state of São Paulo, mainly in the capital and the metropolitan region and in the area of Baixada Santista.

Studies and testimonies claim that the crimes were the result of confrontation between members of the criminal organisation *Primeiro Comando da Capital* (First Capital Command) or PCC as it is commonly referred, and state security forces. However, data shows that this confrontation occurred only at the beginning of the period, on 12 and 13 May.¹⁰ There is evidence of an official decision to carry out reprisals in response to the attacks between 14 and 20 May.¹¹

According to the CONDEPE (State Council for the Defence of the Rights of the Human Person) report, during this period there was an increase in the total number of deaths (mostly of young men) resulting from gun shots, compared with previous years, with an

increase in the average number of shots per victim (4.7), a large number of these being to lethal areas of the body. Most of the deaths followed a pattern which is specific to death squads and there is evidence of police or ex-police participation.¹²

The study looks at the rights violations reported by a number of families of the victims of the May Crimes of 2006, above all, family members of the *Movimento Independente Mães de Maio* (Independent Movement of May Mothers). Research was carried out in an institutional collaboration between the Centre for Forensic Anthropology and Archaeology (CAAF) at the Federal University of São Paulo (Unifesp) and the Latin American Centre, School of Interdisciplinary Area Studies at the University of Oxford, UK. Funding was also received from the Newton Fund, a British government initiative run by the British Council in Brazil, for economic and social development through science, research and technology.¹³

The aim of the research was to re-analyse the so-called 2006 May Crimes, by means of an interdisciplinary proposal, working in conjunction with the social movement, in order to provide a new perspective on events.

The May Crimes have been the subject of a number of studies, with results that point to agents of the state as the main perpetrators of the actions that led to the deaths of hundreds of people. Therefore, the study in question sought to refine the data with a view to contributing to clarifying the circumstances of the crimes and re-opening the debate on the role of the state in investigating the crimes and condemning those responsible.

The studies looked into 60 cases of people murdered by firearms (executions by civilians and by state agents) between 12 and 20 May 2006, in the metropolitan region of the Baixada Santista, in the state of Sao Paulo, Brazil. The analysis used different methodologies and cross-referencing from several data sources: I) a bibliographic and document analysis (Police Reports, Autopsies and Police Inquiries); II) analysis of media reports (local news and national media); III) elaboration of geographical maps on the spatial dynamics of the crimes; IV) forensic analysis of the cases of the victims by means of 3D reconstruction of medical images (ballistic reports) and V) construction and analysis of narratives based on the testimonies of victims' families, including the social context, life history, circumstances of death, procedures after death and information on the judicial process.

In this sense, the research represented an innovative methodological approach. Significant data and concrete responses to the issue that underpins the investigation were gathered and these strengthened the arguments of social movements and the communities affected on a daily basis by state violence. The research results provided the means for an interpretation of the 2006 May Crimes that returned to the view that these crimes were civilian executions and noted the absence of qualified investigations into identity and judgement of culpability. These mechanisms showed that guidelines and/or orders, as well as the lack of them, created an operational mode that gained unofficial legitimacy, as demonstrated in the number of deaths classified as “deaths resulting from police intervention”.

In this article we seek to present one of the aspects analysed in the study:¹⁴ substantiation of state violence as a negative influence on access to justice by families of the victims of the 2006 May Crimes, based on narratives¹⁵ constructed within the research process, with particular attention to information on judicial processes.¹⁶

2 • Structural Violence in Brazil: an analysis of inequality, exclusion and domination

The discussion on state violence in Brazil derives from the debate on structural violence. This leads to inequality in a nation that does not extend full citizenship to all areas of society. State violence evokes a society marked by colonisation and slavery, by the legacy of a military dictatorship and by the challenges of building a democracy on the mechanisms of transitional justice.

Structural violence¹⁷ reveals forms of domination stemming from contradictions between those who wish to maintain privileges and those rebelling against oppression. The current democratic guarantees in Brazil, based on the constitutional gains of 1988, do not prevent the continuation of what is referred to as structural violence.

In addition to this process of the constitution of social and dynamic structure and of Brazilian political culture, marked by violence and inequality, it is important to stress the specific functioning of the state at different points in history.

Human rights violations during the years of dictatorship in Brazil triggered denunciations against Brazil at the Interamerican Human Rights System, during the period in question and after political openness.

Denunciations of cases of arbitrary imprisonment, torture and murder¹⁸ made during the dictatorship were submitted to the Interamerican Commission on Human Rights from 1970 to 1974. Although there were a small number of cases, these usually pertained to the murder or detention of a large number of people.¹⁹

Despite political openness and the 1988 Constitution, Brazil did not succeed in breaking the structure of violence spawned during the dictatorship “when torture and murder became state policy”.²⁰ Change in corporate culture is not possible if there is no change in organisations.²¹

Following the end of the dictatorship a reproduction of the same patterns of violence was seen. In data from 2007, Brazil was denounced to the Interamerican System for 34 cases of police violence, from 1982.²² These denunciations refer to abuse and violence by police incurring the murder of innocent victims and insufficient response to the violations by the Brazilian state. The request is the same in all cases: “condemnation of the Brazilian

state to prosecute and punish agents responsible for the violations committed, as well as compensation for the victims”.²³ In other words, guaranteed access to justice.

The pattern of violations perpetrated by the police and denouncements to the Interamerican System led to some legislative progress, such as changes to Decree nº 1001/69 (Military Penal Code), set out in Law 9299/1996, with the provision that crimes with intent to kill, committed by military staff against civilians, should be tried in regular legal courts;²⁴ the Federalisation of Human Rights Crimes, in Constitutional Amendment nº 45/2004; Law 12527/2011 (regulating access to information) and Law 12528/2011 (National Truth Commission).

*Despite positive changes in the political and legal scenario, failure to effectively control illegal violence is conspicuous: torture of suspects and criminals in police precincts, ill treatment of prisoners and detainees in closed institutions, targeted killings by military police and death squads with the participation of state agents. Impunity is a common denominator in the repeated occurrence of these violations. This is ensured by government inefficiency and omission, particularly within the administration of states. This failure to enforce the law weakens the validity of constitutional guarantees, perpetuates the illegal cycle of violence and impedes strengthened legitimacy of the democratic government as a supporter of citizenship.*²⁵

The democratic state of law in Brazil has proved to be tolerant/complicit of violations of the human rights of historically excluded populations and has been incapable of reducing social violence and of holding guilty parties responsible. It has contributed to victims’ and their families’ increased sense of impunity and of exclusion from the ‘category of citizens’ and violates rights, with state agents using excessive force (torture, arbitrary imprisonment and murder committed by state agents). In addition, it fails to implement public policies to ensure basic social rights and denies victims and their families access to justice and to the truth.

3 • The Judicial Process and Access to Justice Data Analysis of the 2006 May Crimes Victims

Access to justice is a fundamental human right. Through access to justice everybody has the right to have their demands accessed by judicial powers, within a reasonable amount of time.²⁶

The American Convention on Human Rights also upholds access to justice by means of Judicial Guarantees (article 8.1) and Judicial Protection (article 25.1) in both cases these safeguards cite the reasonable duration of a lawsuit.

Brazil has been denounced in the Interamerican Human Rights System for denying access to justice. In the nine denouncements against the Brazilian state at the Interamerican Court

of Human Rights, Brazil was called to answer for violation of articles 8.1 and 25.1 – Judicial Guarantees and Judicial Protection – of the American Convention of Human Rights, as well as other mechanisms, particular to each case.

From the perspective of Penal Law, access to justice covers all stages of the process: establishments of facts (police investigation); denouncement (Public Prosecution); defence (lawyers or public defenders) and the conclusion of the action, the sentence (judiciary). A number of norms and principles must be observed throughout each of these phases, such as the principles of legality and full defence, reasonable duration of the lawsuit and legal equality for all.

Through analysis of the May Crimes from the point of view of the victims' families,²⁷ in terms of procedures, it can be inferred that denial to access to justice occurred at each of these stages. In the investigation phase,²⁸ police neglected to collect elements of proof, such as surveillance tapes and ballistics reports, in contravention of the mechanism in article 6 of the Code of the Penal Process, which outlines procedures to be followed by the police authorities.

[...] I went to the precinct to find out whether the chief of police was going to retrieve the surveillance tape from the petrol station, because I wanted to know which police officer had approached my son. [...] it was extremely difficult for the chief of police to get the surveillance tape from the petrol station. The surveillance tape was only retrieved after I put a lot of pressure on the District Chief of Police. (D.M.S)

[...] We asked for his body to be exhumed six years later, because this was in the request for federalisation, because my son was buried with a bullet lodged in his spine. Think about it, how could a person be murdered and the most important part of the investigation of a crime against a life, the bullet so a ballistic examination can be done, is simply left in the body. (D.M.S)

The analyses also indicated that in some cases there was some difficulty in identifying the victims. As they were not identified, they were buried in unmarked graves, making it even more difficult to prove a crime had taken place. This strategy is also used to strip the dead youth of “any emotional, family or community context”.²⁹

[...] My brother-in-law reported it to the police. That was when they asked for his identification document. I said I didn't have it, he had gone out with it on him. We went to the police station to ask for Rodrigo's ID and they said they didn't know anything about it, that he didn't have his ID on him. Why did they say that? Because they took his body far away, didn't they? They hid his ID so they could bury him in an unmarked

grave, something like that. There were two from Santos who were buried in unmarked graves. (M.A.C)

A number of testimonies highlight the fragile nature of investigations, which compromises the search for the truth, particularly when a long time has passed since the incident. Even the search for witnesses appeared to be precarious and inconsistent. In some cases, not even the family were heard:

They reported it to the police so they could investigate. They said it doesn't matter when it's a massacre. It's just another poor person's son, you know. Nobody got in touch for a statement. Not from the police, they really only made the report so he could be buried, because of the bureaucracy. We wanted to make a police report so they would investigate. They practically said that as it was a massacre and nobody would know who had killed him. So they didn't contact us. (R.M.)

[...] nobody came to ask me anything. One time the police came round asking what he was like. (M.A.C)

[...] He asked what had happened, because it was going to be filed and there was no investigation. That was all he could say because they had a report that they had made when they spoke to the owner of the pizza restaurant who said he knew nothing, but unofficially, not making a statement signing a document saying: I saw nothing. It was just them relating conversations they'd had with people in the neighbourhood, saying that they didn't know anything. That was the investigation that they made. (V.L.A)

[...] He said he was going to investigate, but until this day no investigator has been round asking questions. The one who investigated was me, myself. Nobody knocked on the door, nobody asked anything, they said nothing, absolutely nothing. The only one who investigated at all was me. None of these crimes were investigated, none of the May Crimes were investigated. (V.L.G)

The way in which the police force is structured impedes the process of investigation, for example the chief of police responsible for cases is constantly changing, as one family member explained.³⁰

[...] we went to speak to the chief of the precinct, we went to the Brazilian Bar Association (OAB) to speak to a human rights lawyer and we also went to speak to people at the police station

who still hadn't called us in. There was nothing there. The precinct chief picked up the phone and called the chief of the 5th District where the police report had been sent and told us to go and talk to him. So we went there. The chief of the 5th District, was then moved to a different area. They sent him somewhere else. Another chief came along and immediately went on holiday. The person who was standing in for him ended up taking João's statement. A few days later we were called into the 5th District. I said – maybe things are moving along. In any case I'll go in and see if they want any more information from us. So off I went to speak to the clerk. When I got there he was on holiday and the substitute clerk spoke to me. He said everything's fine and that was that. Nothing else happened. (V.L.A)

Negligence during police investigations is a common occurrence, as can be verified by the low rate of crime resolution. According to 2011 data, the clarification rate for murder in Brazil varied from 5 per cent to 8 per cent.³¹ Poor quality forensics and investigation mean that unless a crime is flagrant, it is unlikely it will be resolved or that the guilty parties will be punished.³²

As a general rule, the victims' background is not a requirement in the legal process, except when there is suspicion of criminal involvement.³³ In the May Crimes investigations, previous history was constantly brought to bear, pointing to an attempt to invalidate the victims and justify their violent deaths. Families were repeatedly required to prove that their offspring were good people, that they worked, did not use drugs.

[...] And when we mentioned our children's' good behaviour to the prosecutor who came, because Dr Marilu Pena at the OAB Human Rights Commission has already been asked to request retraction because they say our children are all criminals. (D.M.S)

[...] They called in Júlio, who is an investigator, police chief Dr Pereira was there, he asked me questions about Ana Paula, about Ed Joe, whether she had any enemies, an ex-boyfriend, an ex-husband, how much she owed, if she owed drug dealers money. (V.L.G)

[...] I kept answering that he was a good lad, hard working, didn't use drugs. (M.A.C)

[...] The lab report said that he hadn't used anything, not even alcohol, nothing. I said – where's Mateus' lab report? He replied – It's there. I said – No! The chief of police, a different one.

He asked for the case to be filed saying that his death was probably because of a drug debt. They must have killed Ricardo by burning the file. (V.L.A)

Prosecutors often alleged that there was nothing they could do given the lack of proof, placing responsibility in the hands of the investigative police. In general, culpability for state violence is attributed to the actions of the military police who are in charge of ostensible policing. It is, however, necessary to widen the focus of violence to the Public Prosecution, to Judicial Power and even to those in government, legislators, the media and society as a whole.³⁴

[...] The prosecutor said he died because he was in the wrong place at the wrong time. He's a good lad, his file is here. It says that he didn't use drugs, he didn't have a criminal record, nothing. It's going to stay here for the next twenty five years. If you find out who killed your son come here. But when I was in the court room they wouldn't let me say it was the police. They didn't want me to say anything. (M.A.C)

[...] at the public prosecutor's office he said: but nobody knows who it was! We can't prove anything. You carry out your own investigations, bring the people here to make statements, to be witnesses, because nobody knows anything and there's no way to find out. They were wearing masks. How can we find out who they were? And he kept messing us around. [...] until I went there to demand a response and he said: The case is being filed. I said: But there's nothing and it's already being filed? He said: Well, if you want to take a look ... (V.L.A)

The Public Prosecutor's Office failed to carry out its role, telling some family members to carry out work, that is, in principle, the duty of the investigative police or the Public Prosecutor's Office itself:³⁵

And the prosecutor wanted me to do the investigation. [...] João got really upset and the prosecutor said: Let's do this then, sir (to the father), you go there and request a copy of Mateus' lab report, then go to the school and ask for a certificate to prove he was attending classes. (V.L.A)

The Police and Public Prosecutor's Office negligence in seeking the truth and facts means families now doubt the existence of institutions that guarantee the general public's rights and justice.

[...] we had to keep asking Dr ... (Public Prosecutor) to do the work of putting pressure on the Attorney General. [...] they

didn't put enough pressure on them, because the public defender thinks the Public Prosecutor's Office defends the general public and they don't. They may defend the Public Defenders but they don't defend us. (D.M.S)

[...] We started to look at their cases. The person who did Ricardo's police report was the same person who did police reports for several other boys who were killed. Very strange, isn't it? (V.L.A)

In the repeated absence of a response about the crimes, victims' families turned to the Brazilian Lawyers' Organisation (OAB) and the Public Defender's Office, but they often faced indifference.

We were also treated with indifference at the Public Defender's Office with regards to the Defender's agreement with the OAB. [...] the lawyer or the defender who took up the case left it in his living room at home for nine months and the copy of case was filed. [...] we saw a number of different people who had the case and then after a while they would pass it on to someone else and they would then do the same. [...] (D.M.S)

However, at other times, the Defender's Office and the OAB paid attention to the families' requests and tried to protect their rights:

[...] And then he presented Dr. Maffezoli who started to look after the cause, but he didn't lodge the request and the time limit was nearly up. Then a lawyer who is a friend of ours and of one of the Mothers, because she worked with him and we knew him too, asked Dr. Maffezoli to lodge the request for moral damage because time was running out, which is what happened to Vera and other mothers. So in the end Dr. Maffezoli did lodge the request, but under pressure from Dr. Sérgio Cunha, the lawyer, and only then we managed to get it. (D.M.S)

Many report the idea of justice as being remote from the reality of their lives, although they strongly wished for it:

[...] I don't expect justice in Brazil in the hands of this legal system, because there's a double standard. There is discrimination of class and of race and I hope for a reform of this system which is worth nothing in Brazil, because it sees really well, but it only sees the periphery and the favela, black and poor people. I

hope that the denouncement that we made at the Interamerican Supreme Court of Human Rights, no matter how long it takes, but that Brazil is condemned for the deaths our children, because someone ordered this crime [...]. (D.M.S)

[...] At the time when it happened to Rodrigo I imagined and hoped for so much from the legal system. But I don't expect anything any more. [...] maybe one day?? [...] I'm not going knocking on anyone's door to find out what's happening with my son's case. They filed the case two months ago. The prosecutor said: your son's file is here, all here. When you want to find out who did this to him come and see me. (M.A.C)

[...] If it's up to my dad we won't try to find out anything else about the case. I've always been a rebel. I've also wanted things to be fair. When I was a child I wanted to study Law. But I've calmed down because of my dad. he's the father right? He's the one who had to chase this. But my dad thinks it's best to leave everything in God's hands. (R.M)

[...] These days, ten years on, we still hope that one day a door will open, that something will happen and everything will be cleared up. I would like that, because we always have the feeling that nothing was done, that nothing happened. They killed him, they simply killed him and that was it. He's just a name, a number and nothing else. (V.L.A)

[...] in all these boys' stories I blame the police and society who accept the deaths of these young people. So, I don't see how it will end like this, if people just accept it? Because we don't have to stop them. We have to stop the people who give the orders. Because nobody goes out with a gun, randomly shooting whoever they want to. Someone gives the order. So who is in charge of the people who give the orders, who has this power? (V.L.G)

It is important to stress that the work of the May Mothers, a group of family members who joined together to fight for the right to the resolution of the crimes to which their relatives fell victim, transformed their private pain into a public cause. Lack of faith in the efficacy of the legal system has caused the families intense suffering. For some this suffering weakened their will to fight. For others it has fuelled the cause:

[...] at the GAECO group³⁶ they tell mothers that it is not possible to denounce the 2006 police officers, but that they can denounce

the police officers involved in crimes now and that in this way they pay for the crimes of the past. But this is unacceptable. If dictatorship crimes can be brought to a head then why not those in times of democracy? [...] I went back to GAECO and asked the Prosecutor Brandão to help us to preserve the young people's bodies for an investigation in the future (D.M.S)

[...] as human beings we have rights and duties. It is his right to know who killed, even if they don't go to prison. Unfortunately Brazil is in this mess, but to know, is a right to know. So he's going to die without knowing. You feel like turning round and saying why? Why did you do this? (R.M)

I am waiting for time to tell me what is the best thing to do. I have kept quiet. I've often felt like saying something and I haven't because I've been waiting for something to happen. The mothers have a special affection for each other, because they all understand what I feel and I understand what they feel. The pain is the same. (V.L.A)

3 • Final Considerations

The open-ended nature of the May Crimes means we are unable to draw any conclusions about the perpetrators. As there were no investigations, forensic tests nor adequate procedures to clarify, or at least try to clarify who was responsible for the crimes and take them to court, it is as though nobody was guilty or as though the victims were not important or as though the victims' families did not deserve to know the truth about the deaths of their loved ones.

The allegation of lack of proof was the justification given by the state for failing to complete the investigations and subsequently judge the crimes. But the denial of access to justice stemmed from omissions on the part of the state. Access to justice was denied when crime scenes were not preserved. This is the role of the Administrative Police Officer of the Military Police. The destruction of crime scenes favours adulteration and obliteration of proof. Access to justice was denied through negligence in gathering proof, such as data caught on surveillance tapes, or hearing witnesses and the victims' families. This is the role of the Judicial Police Officer of the Civil Police. And justice was denied when the families were sent back and forth from the Public Defender's Office to the Public Prosecutor's office where they were often treated with indifference, were denied information and were even mocked for wanting to find those responsible for the deaths of their children.

All manner of disregard in guaranteeing rights was seen in the lack of consistent investigations and in the filing of cases without taking sufficient steps to discover all the facts. As such,

without identification of those responsible and in the absence of sufficient elements and/or information to make denouncements of criminal action, none of the cases went to court.

Disregard for the victims was seen clearly in the treatment of their families. They were denied information about what had happened and about investigations and procedures. As well as having to deal with the pain of losing their loved ones, families had to deal with anguish. They were treated with contempt by state bodies responsible for the investigations. They were continually led to believe that nothing could be done, that there was no way of discovering who was responsible for the crimes, in the midst of bureaucratic discourse and procedures that made them feel invisible and unfairly treated. Humiliation, mockery, persecution and slander were and still are very present in the lives of the victims' families, particularly the mothers who are searching for the truth about the execution of their sons and daughters.

According to general data from the narratives the victims were poor and lived in peripheral regions of urban centres or were socioeconomically vulnerable. When victims are from specific groups, inaction, precariousness and disinterest are evident in investigations and police inquiries. In most cases, this leads to inquiries and possible lawsuits being prematurely filed. The invisibility of the urban peripheries favours denial of access to rights and to the legal system.

Another important aspect, concerning the investigation process and the judgment of crimes is material and non-material (moral and psychological) compensation for the families. The victims were members of poor families and in many cases they assisted their families financially or they were starting their professional lives.

Furthermore, it was noted that the victims' deaths caused illness in their families and psychological and physical consequences which in some cases led to death. For some of those in this situation, it is too late for any historical vindication to repair psychological damage. Other deaths have been caused by the murders of the May Crimes. It will not be possible to talk about justice, if material and non-material compensation is not taken into account in the long-awaited penal sentences.

Finally, visibility of the narratives and of the struggles of these families who are transforming their personal pain into a public cause, is seen as fundamental so that their daughters and sons' stories are not forgotten, so the omissions of the state is made evident, so that future cases are not treated with the same indifference and so that the poor, young, black population living in urban peripheries do not continue to be excluded from the protection of rights and access to justice.

NOTES

1 • This article was based on results of the study “Violência do Estado no Brasil: Um Estudo dos Crimes de Maio de 2006 na Perspectiva da Justiça de Transição e da Antropologia Forense,” (State Violence in Brazil: A Study of the 2006 May Crimes from the Perspective of Transitional Justice and Forensic Anthropology,” Centre for Forensic Anthropology and Archaeology (CAAF) at the Federal University of São Paulo (UNIFESP), Final Report, May 2018, accessed July 4, 2018, https://www.unifesp.br/reitoria/caaf/images/Relatorio_final_2.pdf. Other researchers involved: Professor. Dr. Claudia R. Plens, Professor Dr. Maria Elizete Kunkel, Professor. Dr. Bruno Konder Comparato, Professor. Dr. Camila Diogo de Souza, Marina Figueiredo, Rebeca Padrão Amorim Puccinelli, Edson Barbosa da Rocha, Delphine Denise Lacroix, Lorrane Rodrigues, Bruno Everton Bezerra da Rocha, Natália Aurora dos Santos.

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7 • Julio Jacobo Waiselfisz, *Mapa da Violência 2016. Homicídios por Arma de Fogo (Map of Violence 2016. Murders by Firearms)* (Brasília: Flacso, 2016): 68-72.

8 • Sérgio Adorno and Fernando Salla, “Criminalidade Organizada nas Prisões e os Ataques do PCC,” (Organised Crime in Prisons and First Capital Command Attacks) *Estudos Avançados* 21, no. 61 (2007): 7.

9 • “Relatório Sobre os Crimes de Maio de 2006,” (Report on 2006 May Crimes) Council for the Defence of the Rights of Human People – CONDEPE, SDH/Special Commission on the May Crimes, 2013, accessed July 4, 2018, [10 • In the first three days \(from 12 to 14 May\) the First Capital Command carried out dozens of attacks. As a consequence people linked to the group as well as police officers were killed.](http://www.mdh.gov.br/informacao-ao-cidadao/participacao-social/old/cndh/relatorios/relatorio-c.e-crimes-de-maio; “Análise dos Impactos dos Ataques do PCC em São Paulo em Maio de 2006,” (Analysis of the Impact of the First Capital Command Attacks in São Paulo in May 2006) Laboratório de Análise da Violência (LAV-UERJ), June 2008, accessed July 4, 2018, http://www.conectas.org/arquivos/editor/files/analise%20os%20impactos%20dos%20ataques%20do%20PCC%20em%20SP%20-%20maio%202006.pdf; “São Paulo sob Achaque: Corrupção, Crime Organizado e Violência Institucional em Maio de 2006,” (Malaise in São Paulo, Organised Crime and Institutional Violence in May 2006) International Human Rights Clinic/Justica Global, May 2011, accessed July 4, 2018, http://www.global.org.br/wp-content/uploads/2011/05/SaoPaulosobAchaque_JusticaGlobal_2011.pdf; Movimento Mães de Maio, <i>Mães de Maio: Do Luto à Luta (May Mothers Movement: from grief to action)</i> (São Paulo: Giramundo Artes Gráficas, 2011).</p>
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11 • In the 72 hours after 14 May (Mothers' Day) 60 people were murdered by police officers in the capital, in the metropolitan region of São Paulo and the Baixada Santista. On 16 May alone, the police killed 29 people in supposed confrontations with members of the First Capital Command. Information from the police ombudsman also shows that death squads, in which it is suspected there is police participation, executed 84 people between 14 and 20 May ("São Paulo sob Achaque," IHRC/Justiça Global, 2011, 60-1).

12 • This fact is stressed in testimonies, newspaper articles, official documents and denouncements made by victims' families, presented in the study.

13 • For further information: Newton Fund, Homepage, 2018, accessed July 4, 2018, <http://newtonfund.ac.uk>.

14 • Content analysis was carried out based on reading these narratives, seeking to understand the dynamic of the state violence, focusing on information about the process, from the perspective of access to justice. Laurence Bardin, *Análise de Conteúdo* (Content Analysis) (Lisbon: Edições 70, 1979).

15 • The narratives of eleven families of 10 May Crimes victims were analysed. This discourse was the result of field work carried out by the researchers Débora Maria da Silva – Founder and Coordinator of the Mães de Maio movement and Aline Lúcia de Rocco Gomes and Valéria Ap. de Oliveira Silva-CAAF/Unifesp. They found out the addresses of the families of May Crimes victims, gathered testimonies and carried out discourse analysis.

16 • Throughout the text the use of the expression *judicial/legal process*, with reference to the May Crimes should be understood in the broad sense, given that police inquiries (administrative procedures) never became legal action (prosecutions).

17 • Maria Cecília de Souza Minayo and Edinilza Ramos de Souza, "Violência e Saúde Como um Campo Interdisciplinar de Ação Coletiva," (Violence and Health as an Interdisciplinary Field of Collective Action) *História, Ciências e Saúde - Manguinhos* 4, no.

3 (feb. 1998): 8.

18 • Flávia Piovesan, *Direitos Humanos e o Direito Constitucional Internacional* (Human Rights and International Constitutional Law) (São Paulo: Saraiva, 2007).

19 • Nine cases were submitted in total. For example: Case 1788 (murder of 104 people); Case 1835 (arbitrary detention of 53 people); Case 1684 (the alleged existence of at least 12 thousand political prisoners in Brazil). (Piovesan, *Direitos Humanos...*, 2007, p. 297-299).

20 • Luis Eduardo Soares, "Prefácio," (Preface) in *Política e Ditadura: A Arquitetura Institucional da Segurança Pública de 1964 a 1988 - Volume 1* (Politics and Dictatorship: The Institutional Architecture of Public Security from 1964-1988), Maria Pia Guerra (Brasília, Ministério da Justiça, 2016): p. IX, accessed April 14, 2018, <https://policiaeditadura.files.wordpress.com/2016/09/policia-miolo-interativo-1-1.pdf>.

21 • *Ibid.*, p. IX.

22 • *Ibid.*, p. 305.

23 • *Ibid.*, p. 308.

24 • IA new legislative change has seen a relapse. (Law 13.491/17) upholds that crimes committed by military personnel of the armed forces against civilians are to come under the jurisdiction of the country's Military Court.

25 • Paulo S. Pinheiro, "O Passado Não Está Morto: Nem Passado É Ainda," (The Past is not Dead: nor is it in the past) in *Democracia em Pedacos* (Democracy in Pieces), ed. Gilberto Dimenstein (São Paulo: Companhia das Letras, 1995): 9.

26 • Brasil, *Constituição da República Federativa do Brasil* (Brasília, DF, Senado Federal: Centro Gráfico, 1988): artigo 5º, XXXV, XXXIII e LXXVIII.

27 • The narratives of families participating in the study were used and excerpts were used to provide examples Débora Maria da Silva (D.M.S.), mother of Edson Rogério Silva dos Santos (murdered in Santos/SP on 15/05/2006); Márcia Alves da Cruz (M.A.C.), mother of Rodrigo da Cruz Reis (murdered in São Vicente on 15/05/2006); Raquel Monteiro (R.M.), sister of Ricardo Souza Monteiro Martins

(murdered in Guarujá/SP on 14/05/2006); Vera Lúcia Andrade (V.L.A.), mother of Mateus Andrade de Freitas (murdered in Santos/SP on 17/05/2006) and Vera Lúcia Gonzaga (V.L.G.), mother of Ana Paula Gonzaga dos Santos and mother-in-law Eddie Joey de Oliveira Lavezaris (murdered in /SP on 15/05/2006). The initials of the person speaking appears after each excerpt.

28 • The function of police investigation is usually the role of the Civil Police, according to Art. 144 (...). § 4th, CF –“The civil police department, under the supervision of professional police delegates, are responsible for, according to Brazilian law, the functions of judicial police and resolving criminal infractions, except those pertaining to military staff”.

29 • Laura Capriglione, “Os Mecanismos Midiáticos que Livram a Cara dos Crimes das Polícias Militares no Brasil,” (The Media Devices that Render Military Police Crimes Faceless in Brazil) in *Bala Perdida: A Violência Policial no Brasil e os Desafios Para Sua Superação (Stray Bullet: police violence in Brazil and the challenges)*, Bernardo Kucinski *et al.* (São Paulo: Boitempo, 2015) (e-book).

30 • The position of Police Chief does not carry the privilege of irremovability. So it is not illegal to move a police chief or to reallocate or call-back a police inquiry. Law 12380/13 was passed in an attempt to avoid this being used as a means of persecution or of impeding a criminal investigation. This law upholds that call-back and reallocation of an inquiry and the removal of a police chief can be carried out solely by reasoned order (Lei 12380/13, Art. 2º, § 4º e 5º).

31 • “Meta 2: A Impunidade Como Alvo. Diagnóstico da Investigação de Homicídios no Brasil - Concluir as Investigações por Homicídio Doloso Instauradas até 31/12/2007,” (Aim 2: Impunity as Target. Diagnosis of Murder Investigations in Brazil – Conclude Investigations for Murder up to

31/12/2007) Estratégia Nacional de Segurança Pública - ENASP, 2012, accessed July 4, 2018, http://www.cnmp.mp.br/portal/images/stories/Enasp/relatorio_enasp_FINAL.pdf.

32 • “11º Anuário Brasileiro...”, (Brazilian Yearbook) FBSP, 2017.

33 • Sérgio Adorno, “Crime, Justiça Penal e Desigualdade Jurídica: As Mortes que se Contam no Tribunal do Júri,” (Crime, Penal Justice and Legal Inequality: Deaths that are taken to Trial by Jury) *Revista USP, Dossiê Judiciário*, no. 21 (1994).

34 • Maria Lúcia Karam, “Violência, Militarização e Guerra às Drogas,” in *Bala Perdida: A Violência Policial no Brasil e os Desafios Para Sua Superação (Stray Bullet: Police Violence in Brazil and the Challenges)*, Bernardo Kucinski *et al.* (São Paulo: Boitempo, 2015) (e-book).

35 • The discussion on whether the investigative role is the responsibility of the Public Prosecutor’s Office was decided by the Supreme Federal Court (STF). They recognise the Public Prosecutor’s responsibility in promoting proper penal investigations, respecting constitutional rights and guarantees. In addition it stresses that “the investigative role of the Public Prosecutor’s Office does not become normal activity, but rather exceptional activity, to legitimize their actions in cases of abuse of power, police crimes, crimes against the Public Administration, **inertia of police bodies, or undue procrastination in carrying out penal investigations, situations when, for example, the subsidiary intervention of a ministerial body is justified.**” [author’s highlighting] (“RE 593727/MG, 14.5.2015. Informativo n. 785,” STF, 2015, seen on 25 April 2018, <http://www.stf.jus.br/arquivo/informativo/documento/informativo785.htm>).

36 • Group for Special Action in the Repression of Organised Crime in São Paulo.



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